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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

SEVENTEENTH CONGRESS—FIRST SESSION.

THE
DEBATES AND PROCEEDINGS
IN THE
CONGRESS OF THE UNITED STATES;
WITH
AN APPENDIX,
CONTAINING
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,
AND ALL
THE LAWS OF A PUBLIC NATURE;
WITH A COPIOUS INDEX.

SEVENTEENTH CONGRESS.—FIRST SESSION:
COMPRISING THE PERIOD FROM DECEMBER 3, 1821, TO MARCH 8, 1822,
INCLUSIVE.

COMPILED FROM AUTHENTIC MATERIALS.

WASHINGTON:
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.....
1855.

MARCH, 1822.

Florida Coast—Proposed Adjournment.

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Mr. COOK also submitted the following resolution :

Resolved, That the Secretary of the Treasury be directed to lay before this House any evidence, in the possession of the Department, showing that the uncurrent notes which he received from the banks of Edwardsville, Tombigbee, and Missouri, as mentioned in his report of the 14th ultimo, has been deposited in those banks before the date of the contracts by which they agreed to account for them as cash ; together with the contracts under which those banks were only liable for said notes as special deposits ; if any such contracts there were. And that he also lay before this House, all the monthly returns in the possession of the Department, which were made by the Bank of Missouri ; together with all the correspondence in relation to the latter bank, in the possession of the Department, which has not been heretofore communicated to this House.

The resolution was ordered to lie on the table.

The House took up, and proceeded to consider, the report of the Committee of Claims on the petition of Archibald S. Bulloch and others : Whereupon, it was ordered that the said report be committed to a Committee of the whole House to-morrow.

The House took up, and proceeded to consider, the report of the Committee of Claims on the cases of Hoel Lawrence, Frederick White, and of Thaddeus Clarke and others : Whereupon, it was ordered that the said report be committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate, have passed a bill, entitled "An act supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans ;" and a resolution proposing an amendment to the Constitution of the United States as it respects the choice of President and Vice President of the United States, and the election of representatives in the Congress of the United States ;" in which last mentioned bill and resolution, they ask the concurrence of this House.

FLORIDA COAST.

On motion of Mr. HILL, the Committee on Commerce were instructed to inquire into the expediency of having the coast of Florida surveyed, so as to have an accurate chart thereof made, delineating thereon the entrance of all the rivers and harbors ; the islands, rocks, shoals, and reefs, in the neighborhood of the coast, as well on the side of the Gulf of Mexico, as on the Atlantic side of the peninsula ; and that observations be also made with reference to sites for lighthouses.

[Mr. HILL, in presenting this resolution, observed, that he had hitherto delayed to offer it, in the hope of receiving information from the Corps of Engineers who had recently been directed by the Government to examine the seacoast from the Sabine eastward round the shores of the Floridas ; but, having been informed by some of the gentlemen of that corps who have just arrived at this city, that their examination had been confined principally, if not entirely, to the selection of sites for for-

tifications, he was compelled, from a sense of duty, to call the attention of Congress to this subject now. Sir, we have had this territory in expectancy for many years, and in actual possession a year ; yet, the truth is, that no man, perhaps, in the nation, actually knows where the best ship harbor is situated ; and an examination is now making in relation to Spiritu Santo, alias Tampa, alias Hillsboro' bay. Another examination has been ordered in relation to certain islands near Cape Florida. These partial expenditures would be avoided ; the coasting trade would be greatly benefited ; the information necessary to the establishment of lighthouses on the coast would be furnished ; and the risk of piratical depredations diminished, by having an accurate chart of the coast. The British Government have recently employed a vessel of war, to take the survey of those shores ; but, whether it will ever be published, so as to be of any advantage to us, is uncertain. And shall we be more improvident toward a country we own than foreign nations ? I hope not, and that the resolution will be adopted.]

PROPOSED ADJOURNMENT.

Mr. BUCHANAN called for the consideration of the joint resolution from the Senate, to fix a time for the adjournment of the present session, (the first Monday in April next.)

On the question to consider this resolution, the yeas and nays were required by Mr. MERCER. Mr. CONDUCT then moved to lay the subject on the table, (in order to avoid what he considered an interruption, to no useful purpose, of the regular business of the House.) The yeas and nays were ordered also on this motion, which Mr. CONDUCT then withdrew.

[Two questions of order were decided by the SPEAKER on this occasion, worthy of being recorded, being important as precedents.

1. It was questioned by Mr. TAYLOR, whether it was in order to move to lay on the table a motion to consider a proposition now lying on the table. The SPEAKER decided that a motion to lay any proposition on the table is in order.

2. A motion was made by Mr. WALWORTH, to proceed to the orders of the day, with a view to overruling the motion now presented. The SPEAKER said, that he had more than once entertained this motion, as being conformable to the practice of the British Parliament ; but, upon an examination of the rules of the House, with a view to this question, and finding that they direct, that when a question is under debate, that none but certain prescribed motions shall be received, of which the motion now made was not one, he decided that the motion to proceed to the orders of the day, there being another question under debate, was not in order.]

The question on now considering the resolution from the Senate, was then taken by yeas and nays, and decided as follows :

For considering it 63, against it 82.

So the House refused now to consider the said resolution.

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Report on Weights and Measures.

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REPORT ON WEIGHTS AND MEASURES.

Mr. LOWNDES, from the select committee, to whom was referred the report of the Secretary of State on weights and measures, made the following report, which was committed to a Committee of the Whole, with the resolutions:

The Committee to whom has been referred "the report on weights and measures," made by the Secretary of State, on the 22d of February, 1821, report:

That so comprehensive a view has been given, in the documents referred to them, of the origin and history of the measures and weights now in use in the United States, and so full an examination of the different proposals which have been made for their improvement, that they deem it scarcely necessary to do more than to submit the resolutions which they think it expedient that Congress should pass at this time. Their object is only to "render uniform and stable the measures and weights which we at present possess."

To effect this, they propose that the President shall cause application to be made to the English Government to allow models of the yard, the Winchester bushel, wine, gallon, and pound, (*avoirdupois*), to be procured from its offices. For the purpose of easy and perfect comparison, it may be as well that the yard should be traced upon the rod of platina in the possession of the Department of State, on which is traced the French metre. These models should be made with the utmost accuracy which the art and science of England can give, and, if satisfactory to Congress, should be declared the standard yard, bushel, liquid gallon, and pound, of the United States. There is some difference of opinion as to the material of which the standards shall be formed. The committee will not detain the House by a full exposition of the reasons which led them to conclude, that, at least, the standards of length and weight should be of platina, as the material on which time is found to produce the smallest change. The Secretary of State, who adopts an opposite opinion, has said that "the very extraordinary properties of platina, its unequalled specific gravity, its infusibility, its durability, its powers of resistance against all the ordinary agents of destruction and change, give it advantages and claims to employment as a primary standard for weights and measures and coins, to which no other substance in nature has equal pretensions. Should the fortunate period arrive when the improvement in the moral and political condition of man will admit of the introduction of one universal standard for the use of all mankind, it is hoped and believed, that the platina metre will be that standard." But, if the immutability of platina recommend it so strongly as a standard for all nations and all time, it can hardly be amiss to adopt it for the interval which may elapse before the universal adoption of a national standard. This interval the Secretary and the committee may be willing to shorten, but it seems likely to last as long as diversities of laws and language among men. If the standard pound shall be of platina, it must of course, be made equiponderant with the English pound *in vacuo*, and the same means must be used in making the models of weight which are intended for distribution among the States. The standards of measures of capacity must, probably, be of copper or brass, and the careful preservation of all the standards may be provided for in the law which shall establish them. The committee think it best that they should be kept in the Department of State,

and used only to verify the models which may be issued under the authority of Government.

The committee believe that, by distributing accurate copies of these standards among the States, the present inequality of weights and measures will be so far removed as to leave little practical inconvenience in that regard. They propose that the President shall cause to be procured such a number of copies or models of these standards of weight and measure (with their most convenient multiples and divisions) as may be necessary to allow one model of each standard to be lodged with the clerk of each district court of the United States, and one to be given to each State and Territory, to be disposed of as its Legislature may direct. The most convenient material for those copies will probably be copper or brass, but the determination of this question may best be referred to the authority which shall procure them.

It is believed that no other obligation will be required to enforce, on the part of the officers in the service of the United States, the use of weights and measures conformed to the standards established by law, than that which a sense of duty and a dependence upon the Government for their continuance in office must produce. The committee think it best, that Congress, after providing the standards of weights and measures, and furnishing models of them to every State, should leave it to the laws of the several States to enforce their use by persons who are not in the service of the United States. In the custom-house and land offices, the measures and weights may be provided from the same funds, and under the same authority, which have been hitherto employed. The committee suppose it necessary only to provide for such a distribution of models as may make it easy to verify the weights and measures which may be used either by public officers, or in private transactions. It was proposed by a former committee of the House of Representatives, in a report made in January, 1819, that the relations between the different standards should be accurately ascertained and declared in the law which should establish them.

It was observed, that "the determination of the proportions between lineal measures and measures of capacity, and between both these and weights, may have some effect in enabling us to detect, without too difficult a process, the defects of measures of capacity, and possibly of weights in common use. For this purpose it would perhaps be convenient to establish, not merely the cubical contents of the common measures of capacity, but to fix determinate forms for all these, and dimensions whose correctness might be ascertained by the common measures of length." But the relations between the standards cannot be ascertained with that absolute certainty which should be exacted in a law fixing permanent standards. The calculation of the dimensions of vessels of capacity is found, even by the most practical artists, to be so uncertain, that they rely entirely upon the trials by the weight of water which they contain. It is of some importance, that the forms of measures of capacity, which are used in commerce, should be left to depend upon the material, or the art which it is found most convenient in the different parts of our country to employ. And in fine, those relations and dimensions which it is useful to know, will be ascertained by philosophical inquiry, and published in books of easy reference. Indeed, they have been so.

The committee have proposed to establish but one standard of weight. It will be necessary that accurate

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models of the grain and its usual multiples, should be provided to verify the weights which are used for the precious metals and for medicine. The law which shall establish the standard pound, may declare the grain to be the seven thousandth part of the pound, as frequent and careful examination has shown it to be.

The committee submit the following resolutions :

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested, (if the consent of the Government of Great Britain shall be given thereto,) to cause to be traced on a rod of platina, the yard of the year 1601, which is kept in the British Exchequer ; to cause to be made of platina a pound, of the weight in vacuo of the English avoirdupois pound ; and that he also cause to be made, of whatever material he shall deem best for standards of those measures, a vessel of the same capacity as the standard Winchester bushel, and also a vessel of the same capacity as the standard wine gallon of England.

Resolved, That the President be requested to cause to be made, for distribution among the States and Territories, and for the purpose of verifying the weights and measures used therein, models of the yard, on which shall be traced its divisions of feet and inches ; models of the bushel, half bushel, quarter bushel or peck, thirty-second part of a bushel or quart ; models of the wine gallon, of the wine quart and pint ; models of the pound, half pound, quarter pound, of the sixteenth of a pound or ounce ; of the seven thousandth part of a pound or grain ; models of the pennyweight or twenty-four grains, of the scruple or twenty grains ; and, of the apothecaries dram or sixty grains ; models of the weight of twelve and a half pounds, of twenty-five pounds, of fifty pounds, and of one hundred pounds ; that these models of weight and measure be formed with the utmost practical exactness from the weight and measures procured under the authority of the foregoing resolution, and that the number to be procured of each model shall not exceed —.

CONTESTED ELECTION.

Mr. SLOAN, from the Committee of Elections to which was referred the memorial of Philip Reed, contesting the election return of Jeremiah Causden, as one of the representatives for the State of Maryland, made a report thereon favorable to Mr. REED ; which was read, and committed to a Committee of the Whole.—The report is as follows :

That the constitution of Maryland directs that the elections shall be by ballot ; that every free white male citizen of the State, above twenty-one years of age, and no other, having resided twelve months within the State, and six months in the county, next preceding the election at which he offers to vote, shall have a right of suffrage in the election of Delegates to the State Legislature ; that the State is divided into districts for the purpose of electing Representatives to Congress ; that the sixth Congressional district is composed of the counties of Hartford, Cecil, and Kent. The election for Representatives to the present Congress was held on the first Monday of October, 1820. At that election the memorialist and the sitting member were candidates, and, by the returns from the several counties in said district, as made to the Governor and Council, it appears that the memorialist and sitting member had an equal number of votes, and that neither had the " greatest number of votes,"

as by the constitution of the State is required, in order to constitute an election. But it further appears, by an official statement of the proceedings of the Governor and Council, bearing date the 18th day of October, 1820, that, in conformity with what was considered to be the provisions of the law of Maryland, the Governor and Council " proceeded to decide between them which should be the Representative, and the result was that Jeremiah Causden, Esq., was decided to be the Representative for the said district." The committee are aware that to question the right of the Executive authority of Maryland to give full operation to the provisions of its election laws, will be considered as a measure of an important character. It is understood by the committee that the authority, under which the Governor and Council acted, is the act of the State of Maryland, passed the 14th of December, 1790, chapter 16, section 13. This provision of the act, the committee believe, has been repealed by the act of the 2d of January, 1806. But they consider it unnecessary to enter into an argument on this point. The Constitution of the United States, article 1, section 2, provides, that " the House of Representatives shall be composed of members chosen every second year by the people of the several States ; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature." Section 5 of the same article provides that " each House shall be the judge of the elections, returns, and qualifications of its own members." On the first Monday of October, 1820, in conformity with the law of Maryland, an election was held by the qualified electors of the sixth Congressional district. On that day they either did, or did not, elect a member to Congress. None could be elected unless he received a greater number of votes than were given for any other candidate. The term election must mean the act of choosing, performed by the qualified electors, in conformity with the requisitions of the Constitution and laws regulating the manner in which the choice shall be made. If, therefore, the legal electors, on the day appointed, should fail to make a choice, it is confidently believed that no other authority of the State can, at any other time, make good this defect. Let it be supposed that the electors should fail to attend an election ; that, consequently, no election is held ; would it then be contended that the Executive authority could, by lot or otherwise, appoint a Representative for such district in the Congress of the United States ? This is a power which, it is presumed, none will contend does exist. Yet it is believed to be nothing more than that which has been exercised by the Governor and Council of Maryland, in the case under consideration. In this case, the electors assemble, they proceed to elect, they make no choice, they come to no Constitutional result. It is asked, what is the difference between the two cases ? The one would be an appointment, because no election had been held ; the other, because no choice had been made. The committee being of opinion that the power thus virtually exercised by the Governor and Council of Maryland, in appointing a Representative to the Congress of the United States, being contrary to the express provisions of the Constitution, and one which this House cannot sanction, have no hesitation in rejecting the official statement of the proceedings in the case as evidence of the right of the sitting member to a seat in this House.

Having disposed of this part of the subject referred

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to them, the committee proceeded to an examination of the claims of the memorialist, and the objections of the sitting member thereto. The memorialist alleges that at the election district No. 1, in Kent county, at said election, two tickets or ballots were thrown away by the judges of the election, and not counted, which tickets were given for him, and ought to have been set down and counted to his poll. These tickets, it appears, were thrown away under an impression that they had been folded together with a fraudulent intention, previous to their being put into the ballot box. On the part of the sitting member it was contended that at Elkton, in Cecil county, two tickets under similar circumstances were thrown away, and not counted, which ought to have been added to his poll, and that, at the same district, the memorialist was allowed one vote on account of a ticket on which was the name of the memorialist, together with that of five other persons, without any other designation than that of "for Congress." It was also contended by the sitting member that sundry illegal votes had been given for the memorialist, which, if deducted from his poll, would give the sitting member a clear majority of votes in his favor. No charges of a want of integrity were made by either party, against any of the officers who had been engaged in conducting the election. Some of the testimony exhibited to the committee had been taken previous to the meeting of Congress, and some has been taken since, under instructions given by the committee, for the government of the parties. It was suggested to the parties by the committee that it would be satisfactory to have the testimony of the judges and clerks of the election in district No. 1, of Kent county, respecting the double ticket, thrown away; and such course was recommended as was thought fair and liberal, and best calculated to arrive at a full knowledge of all the principal facts in the case, and the memorialist departed in order to procure additional testimony. At this time, it was understood by the committee that the sitting member rested his claim on the testimony he had already taken; but a few days subsequent, having stated to the committee that he was apprized of other testimony in the case, and that it was his wish to obtain it, a letter was addressed to each of the parties by the chairman of the committee, appointing the 10th of January, 1822, for the final hearing of the case by the committee, and requesting each to give the other five days' notice of the time and place of taking the additional testimony. The memorialist avers that he did not receive the notification of the committee until it was too late for him to be prepared to take depositions of his witnesses; until the day appointed for the decision of the case; and that, on his way to Washington, he accidentally lost the testimony. Under these circumstances, the committee permitted the testimony to be taken a second time, and inasmuch as the sitting member had not attended the taking of these depositions in the first instance, and did not object to them when presented, on account of not having notice, the committee agreed to receive the testimony thus offered. They have been thus particular in detailing all the circumstances that occurred in the case since it came under their cognizance, because, although some of the testimony may be such as strictly might not be admissible in a court of law, yet, as there appeared to be every disposition on the part of both the gentlemen to waive all objections of form, and to pursue a course calculated to arrive at facts, the com-

mittee were disposed to be less rigid than under other circumstances they might have been disposed to act. In respect to all the other testimony, due notice has been given by each party, and they attended or not as they thought proper. In support of the claim of the memorialist, John C. Hynson, one of the judges of the election in district No. 1, of Kent county, states that he took the tickets from the box; that two tickets were thrown away, on which was the name of General Philip Reed for Congress; that those tickets were not counted, but rejected, under an impression that they were a double ticket fraudulently put into the box; but that, after he had passed it out of his hands, he was impressed with a belief that it was not double, and that this impression was confirmed when, on counting out the whole of the ballots, two were wanting to make the number equal to the number of persons voting.

Dr. Beckington Scott, David Vickers, James Price, James Ringgold, James Eagle, Jr., Darius Dunn, and John C. Hynson, Jr., testify that they were present at the opening of the ballot box and counting of the tickets, and that they were satisfied that the two tickets thrown away, and which had the name of General Philip Reed on them, were not double, and that, on the final counting of the votes, there being two ballots less than there were names of persons voting, confirmed them in their belief.

The deposition of Elijah Beck states that he was clerk of the election, but states nothing respecting any of the facts in the case.

William Scott, clerk of Kent county, certifies, under the official seal of said county, a copy of the poll-book of said election, which shows that 365 persons voted at said election, and that only 363 tickets were counted.

The deposition of Joseph Ireland states that he acted as clerk of the election. That the judges drew from the box a double ticket, and threw it away. That he saw it in Judge Hynson's hands. And that, after the votes were counted, and the disagreement between them and the poll list was discovered, Judge Hynson still said it was a double ticket.

The sitting member produced the depositions of William Boulden and John Kean. They state that they acted at the election in district No. 2, in Cecil county, in 1820, the first as judge, the second as clerk; and that General Philip Reed was allowed one vote on account of a ticket which had four other names on it, without any other designation than "for Congress." They also state that two tickets were thrown away on account of being doubled.

James Sewall, clerk of Cecil county, gives a certified copy of the ticket alluded to by Boulden and Kean, under the official seal of Cecil county.

The deposition of John Bradshaw states that he was one of the judges of the election in district No. 1, of Kent county. That Judge Hynson drew from the box a ticket which he said was double; the deponent observed that if so, it ought to be destroyed, and it was thrown away. That after the counting was finished, two ballots were wanting to correspond with the book of polls. That he observed to Judge Hynson that perhaps it was a mistake as to the ticket destroyed being double, but he declared it was double, and that it sometimes did happen that the ballots and polls did not agree. Deponent states that he did not see any name on the ticket destroyed, not having it in his hands.

William Scott, clerk of Kent county, certifies, under

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the official seal of said county, that, during several years past, there has been a difference in some of the districts in said county, between the number of names on the poll-books of election and the ballots counted out.

The law of Maryland, in relation to this subject, is, that "every voter shall deliver to the judge or judges of the election, in which he offers to vote, a ballot, on which shall be written, or printed, the name or names of the person or persons voted for, and the purpose for which the vote is given plainly designated." This law further provides, that after the poll is closed, and whilst the ballots are opening and counting, that "if upon opening any of the said ballots there be found any more names written or printed on any of them than there ought to be, or if any two or more of such ballots or papers be deceitfully folded together, or if the purpose for which the vote is given is not plainly designated as within directed, such ballots shall be rejected and not counted."

In support of the allegation of the sitting member, that sundry illegal votes had been given to the memorialist which ought to be deducted from his poll, he produced the depositions of Edward Brown, George Copper, James Coleman, Josiah Massey, and the official certificate of James Sewall, clerk of Cecil county. On the propriety of entering into an investigation of this kind, when elections are by ballot, the committee entertain serious doubts. True it is that the decisions of the House in the case of Kelly and Harris, and Easton and Scott, may be considered as establishing the principle; yet, it is believed that when the circumstances attending those decisions are examined, it may be doubted whether they ought to be viewed as establishing a precedent which shall govern all future decisions. But as no desire is entertained to agitate this question at the present time, the testimony has been received, and attentively examined, but decided to be insufficient to establish any of the facts contended for.

From a full, attentive, and deliberate examination of the case, in all its points and bearings, the committee are impelled to the conclusion that the sitting member cannot, consistent with the Constitution of the United States, be allowed to retain a seat in this House, under the proceedings of the Governor and Council of Maryland. That the testimony in relation to the two votes rejected in district No. 1, of Kent county, proves that these tickets were not fraudulent, and that they ought to have been counted to the poll of the memorialist, for whom they were given; and that the vote allowed to him in district No. 2, in Cecil county, ought to be deducted from his poll, as being clearly an illegal vote. Therefore, by adding to the poll of Philip Reed, the memorialist, two votes improperly rejected in Kent county, and deducting one therefrom, for that improperly allowed in Cecil county, he will have a majority of one vote over the sitting member.

The paper marked A, is the answer of the sitting member to the prayer and arguments of the memorialist.

The following resolutions are submitted:

"Resolved, That Jeremiah Causden is not entitled to a seat in this House.

"Resolved, That Philip Reed is entitled to a seat in this House."

A—Letter of the sitting member.

SIR: In the contested election between General Philip Reed and myself, as it may be presumed that

all the testimony on both sides, intended to be produced, or which will now be received, has been submitted to the committee, it seems proper that I should offer a few remarks upon the subject. This would have been earlier done, but for the impression that a partial discussion would rather retard than expedite the ultimate determination. In replying to the petition or memorial of General Reed, I must beg permission to invert the order adopted by him. He claims a seat in the House of Representatives upon the ground that he had a legal majority of votes; and if such were the fact, his claim would not be resisted; but I will examine this fully, as the second branch of the present inquiry. In the latter part of the memorial the petitioner labors to show that the law of Maryland, under which the sitting member has been returned, is repugnant to the Constitution of the United States, and therefore void. This law was passed in 1790, and not in 1791, as stated in the petition, about two years after the formation of the Constitution of the United States, and by some of those very men who just before had sat in the Convention which agreed to adopt that Constitution. It, moreover, was passed for the express, avowed purpose, of carrying that Constitution into effect, and giving it full operation in Maryland. This is declared to be the object of the law, (see the act itself, 1790, chap. 16.) It must then appear strange indeed, if, under these circumstances, the law shall be found to be at war with the Constitution, in one of its most important provisions! I rather presume the Constitution was quite as well understood by the framers of this law as it is now, and I beg leave to add, that I further presume that there then existed quite as little disposition to violate the Constitution, or the rights of the people, as at this time. Upon turning to the law, the following provision will be found in the first section thereof: "Whereas it is declared by the Constitution of the United States that the House of Representatives, in the Congress of the United States, shall be composed of members chosen every second year by the people of the several States; that the electors in each State shall have the requisite qualifications of electors of the most numerous branch of the State Legislatures, &c. In order, therefore, to carry the said Constitution into effect, be it enacted," &c. It is presumed that this section will hardly be contended to be at variance with the Constitution. And similar sentiments and language are to be found in the third and eighth sections of this same law. Yet, in the thirteenth section, it is provided "that in case two or more persons shall have an equal number of votes, the Governor and Council shall determine by lot, from the candidates, who shall be the Representative." Are these several provisions inconsistent with each other? Can they not well stand together, and form parts of the same system of elections? The most rigid critic must admit that they may. Then they may as easily be reconciled to the Constitution of the United States. And when it is asked, What are the rights of individual voters? and what are the powers of State Legislatures in relation to elections? this very law furnishes a strong and clear illustration. Every person entitled to vote for Delegates to a State Legislature is also entitled to vote for a Representative to Congress; and he has as high a security for the one right as the other. But upon the presumption that all the voters of a given district have exercised this right, (and such is the presumption of law,) and a tie between two or more candidates is the consequence, then the State Legislature, under the power to regulate

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the manner of holding elections for Representatives to Congress, may, if they think proper, provide by law for the determination of the tie, by lot, or otherwise. But in such a case the petitioner would object that the choice would not be by the people. Mr. Chairman, if we consult the phraseology of the Constitution, we shall perceive that the idea of representation pervades every part of it; that the Constitution itself, though it literally, and in express terms, is declared to be ordained by the people, is their act only upon this principle. It commences by saying, "We, the people of the United States," as if the people were personally assembled, and about to act together. It will be found, sir, that all acts done in the name of the people, or in virtue of authority derived from them, are truly and properly the acts of the people. The President of the United States, for the purposes of his appointment, is as truly and as literally a Representative of the people as a member of Congress. His election is not so immediately the act of the people, but still he is elected by them.

But, sir, the petitioner objects further, and asserts, respecting the first clause of the second article of the Constitution, (already quoted,) that "the command here is peremptory," &c. Now, with submission, I must insist that here is no command at all, either peremptory or not. The clause contains a general declaratory description of the House of Representatives; but more general it could not well be, and, without forcing its manifest meaning, it cannot be regarded as an authority for any particular mode of election by the people. And we have seen that it is perfectly consistent with the law of Maryland, of which it is made a substantial part. Upon the principles of this law, no popular right is violated, no voter has any ground for complaint, nor have the Legislature of the State transcended their powers in its passage. For I cannot subscribe to the doctrine of the petitioner, when he lays it down, "that the Constitution never intended that there should be any interference on the part of a State, as to the election of Representatives to Congress, further than is expressly declared." Sir, the very reverse of this doctrine is the true one.

The States may interfere in any and every case where they are not expressly or by necessary implication forbidden. The Constitution is no grant of power to the States or to the people; it is a grant *by* them; and all powers not expressly or by necessary implication granted are retained by them. Surely it cannot be necessary to press this subject further. But if this view of the subject should not meet the approbation of the committee and the House, and they should think the law unconstitutional and void, still the right of the petitioner to a seat is not established. He sets up a claim to a seat; and if in point of fact there was a tie, and the law of Maryland is void, then the petitioner has no more right to a seat than any other person in the community; and if there was a tie, and the Maryland law is a valid one, then too is there an end of the question. The claim of the petitioner rests wholly upon the fact of his having a majority of legal votes; and unless he can prove this fact to the satisfaction of the committee and the House, he must fail; and whatever opinion the committee and House may entertain of the law of Maryland, if it shall appear by proof that the sitting member had a legal majority of the votes, his seat will be confirmed as a matter of course. I will therefore proceed, Mr. Chairman, to an examination of the testimony which has been pro-

duced and laid before the committee, remarking that in this as in all other cases of claim the *onus probandi* lies upon the claimant. But the sitting member will go further: he will endeavor to show by proof that there was a legal majority of votes given in his favor and that the majority is decidedly against the petitioner.

The petitioner rests his claim solely upon two tickets, rejected by the judges as a double ticket. He states that these tickets were single, and not double, and that they contained his name for Congress. Mr. Chairman, both these positions are denied positively, and the evidence is appealed to with perfect confidence to settle the question. The petitioner produces several affidavits, mentioned in his petition, to prove that in the first or lower district of Kent county, at the time of counting out the ballots, one of the judges (Mr. John C. Hynson, the junior judge) drew from the ballot-box a ticket which at the time he declared to be a double ticket from its size. He passed it (say these deponents) to John Bradshaw, the presiding judge, unopened. Mr. Bradshaw they say opened the ticket and found it to be double, upon which it was rejected, but that each of those tickets contained the petitioner's name for Congress. The deponents further state that they were under the impression that these tickets were single, and not double, as supposed by the judges; and that their impressions were confirmed, when, upon finally comparing the number of tickets with the number of the names of the voters upon the poll-book, there was a difference of two.

This is the amount of all the testimony produced by the petitioner which is in his favor. His witnesses contradict each other, and are contradicted by those produced by the sitting member, in so strong a manner and to such extent that only a few facts are left undisputed between them. It is however certain that Judge Hynson drew a ticket from the ballot-box of such unusual size as to induce him to remark at the time, that from its size, he supposed it must be double; that it was only from the size of the ticket, and not from any other visible appearance, that he was induced to make this remark. The ticket was so folded together that no one present—not even the acute Dr. Beckington Scott, who observed it when it was first drawn from the box—could determine whether it was single or double until it was opened. To this point the evidence is uncontradicted. There is no witness who denies this to be the character and description of the ticket. When the ticket was opened it proved to be double, and was very properly rejected by the judges. All the witnesses concur in stating the rejection of this ticket as the joint act of the judges. There was no dispute, no doubt, about it; no dissenting voice; not even a whisper among the warmest friends of the petitioner. Thus far the evidence may be safely trusted, because it all agrees. The question then is, was this properly a double ticket, or did two separate tickets thus enfold themselves by chance? If the committee and the House believe this was a double ticket, then there is an end of the petitioner's claim, whatever names may have been written upon the tickets. If tickets be loosely folded when deposited in the ballot-box, by pressing them together with a stick or quill, or by shaking the ballot-box itself, they may become partially enfolded in each other: but in such a case there can never be any difficulty in deciding, by sober judges, who possess common eyesight. But if a ticket so folded as to answer the description of the

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ticket in question be deposited in the ballot-box, none of these means or any instrument of chance will be sufficient to produce an enclosure of one ticket in another. The thing is, ordinarily speaking, impossible. It will be recollected that the judges acted upon oath in this case, and that, as to this matter, they fully and explicitly agreed. They signed a joint return in conformity to this determination, which has become a public record. If either of them had felt the smallest doubt, or had been under the slightest impression that the ticket was improperly rejected, he was bound to communicate it to the other judges, and to rectify the mistake before the return was made. But in point of fact (for the proof of this is also uncontradicted) Judge Hynson declared, after all the votes were counted out, and after the deficiency was discovered, "that he was certain that it was a double ticket, and could not be counted." This Judge Hynson also remarked, at the same time, "that he had acted as judge several years, and that the tickets counted out often disagreed with the book of polls." And I would refer to the certificate of the clerk of Kent county, which has been laid before the committee, for numerous instances in different years. By this document it will appear that the tickets counted out oftener disagreed with the book of polls than accorded with it. Sometimes there was a difference of one, at other times two and three, &c.

This has been attempted to be explained by the deposition of Mr. Beck, produced by the petitioner, in a manner not a little singular, and to which I must request the attention of the committee. Mr. Beck States that it was the practice to throw away scattering votes, and not to count them; but that, in 1820, columns were raised for all scattering votes, &c. Mr. John C. Hynson is made to speak to the same effect; I say is made to speak. I shall have occasion to notice this more fully hereafter. Mr. Chairman, what proposition is this? What is its character? Has it been the practice for the judges to violate their oath? When votes are counting out, how is it possible to tell, when a ticket is produced in favor of an individual, how many more he will obtain? And how can a judge know who is a candidate, except by the tickets as they appear?

But, sir, these gentlemen will admit that it was the practice to keep a column of numbers, if none was kept for scattering votes, and in this numerical column the number of the tickets was kept, independent of any or all the candidates. The object of keeping this numerical column was to ascertain, as far as possible, the correctness of the whole proceeding. But it is a fact that mistakes have frequently occurred in the hurry of an election. Names have been placed on the poll-book who did not vote, and others have been omitted who did vote. We have a very recent instance of a zealous and distinguished politician who voted, but his name, though as well known as any in the country, was not entered on the book. This is the true and natural solution of all the difficulty.

Only suppose, in the case before us, that one single name was entered upon the books by mistake, (a thing that happens every day, and in all bodies or assemblies of men,) and then we have additional proof that the ticket was double. And permit me to inquire whether this is not a much more probable supposition than that the judges should be deceived as to a fact of so plain, so palpable, and so simple a character. Even a slight attention to the different depositions is sufficient to show that no claim can be raised upon such

evidence. Whether Hynson, for example, opened the ticket in question, or whether it was passed to Bradshaw, and opened by him, is asserted and denied most positively by different witnesses. But all the testimony is calculated to demonstrate that the ticket was truly a double one. It then only remains to explain the disagreement between the poll-book and the tally, which, it is presumed, has been satisfactorily done.

The deposition of Judge Bradshaw is entitled to entire confidence—a gentleman of high, respectable character, in every view of it, and a witness who has acted with the most perfect propriety throughout. When called upon, on the 2d of January last, to give testimony in presence of the petitioner and sitting member, he attended, and coolly and deliberately stated the facts, before them, in so clear and circumstantial a manner, as to leave no doubt of his veracity.

It would give me pleasure to be able to indulge in similar remarks as to Mr. Hynson; but this gentleman, though called upon in the same manner, and requested to attend at the same time, and give his evidence in the presence of the parties, refused, or neglected to do so. This is proved by the deposition of Morgan Brown, junior, who had requested the attendance of Mr. Hynson.

A letter was then sent to Mr. Hynson by the sitting member, requesting him to state in writing his knowledge and recollection upon the subject. Mr. Hynson, it is confidently believed, received this letter, but took no notice of it. Afterwards, in the absence of the sitting member, on the 10th of January, it seems he gave a deposition to the petitioner, which the latter states he lost on his way to this city. Subsequent to this, on the 12th of February last, Mr. Hynson, it seems, made oath again for the petitioner, and, to guard against casualties, swore to two depositions, signing one, and not signing the other; the latter is endorsed "a duplicate," and is produced; the former, which was signed by him, as stated by the petitioner, is not produced. All this operation of making depositions and duplicate depositions, on the part of this witness, was in the absence of the sitting member. This witness had refused to attend, he had refused to put pen to paper, he had refused to utter a word when the sitting member could be present, but in his absence he voluntarily furnishes depositions and duplicates to the petitioner, to his full satisfaction. And, in the duplicate produced, Mr. Hynson is made to say that "the two votes or ballots were thrown away, and not counted to the polls of General Philip Reed, as the deponent was satisfied they should have been." And was this deponent really satisfied that two tickets were thrown away which ought to have been counted to the poll of the petitioner? What! and he a judge, and say not one word about it, but declare publicly that the ticket was double, and could not be counted! And all this, even, after the whole of the tickets were counted out! Then to sign a return, under oath, which he knew was incorrect! Has Judge Bradshaw acted in this manner? I appeal to every bosom in which there may yet remain one solitary spark, one lingering trace of honorable feeling! From Judge Bradshaw's deposition, it appears that there must have been a mistake as to the names upon these tickets. He swears, positively, that he saw no name upon them; he only saw an eagle at the top on the inside. Now, as this was a mark of that ticket upon which the petitioner generally run at that election, it may be that the bystand-

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ers who saw it might have inferred that the petitioner's name was upon it; for it must be remembered that the name of the petitioner was printed at the bottom of the tickets upon which it was printed at all, below the names of the county delegates, though, in some instances, it was stricken out, and the name of the sitting member inserted.

The deponents named in the memorial, or rather some of them, say that the double ticket had upon it "General Philip Reed, for Congress." I feel no disposition, Mr. Chairman, to cavil, or raise frivolous objections, but I hope to be pardoned for remarking that here is a striking proof of the incorrectness of the recollection of these deponents. There were no printed tickets used at that election containing this inscription! And, to prove the fact, sir, I submit to the inspection of the committee the whole of the tickets of one entire district in that county, as they were taken from the ballot box. The tickets are either stamped with an eagle at the top, or without one; but upon no one printed ticket can this superscription, inscription, or whatever you may please to call it, be found; yet these deponents use the same words, and in the same order precisely, and their words are carefully marked. What is the inference? These deponents saw what never existed! So much for these *ex parte* depositions!

I am much mistaken, Mr. Chairman, if these views of the subject do not satisfy the committee that the petitioner has wholly failed to establish his claim to the benefit of these tickets.

But, sir, be this as it may, I will now proceed to show that there was a decided majority *against* him. I have hitherto called the attention of the committee to the pretensions of the petitioner, and the allegations and proofs offered by him. Now, I must claim the indulgence of the committee, while I present a brief and condensed view of the pretensions, allegations, and proofs, of the sitting member. First, it is in full proof that the petitioner was allowed by the judges of the Elkton district, in Cecil county, the benefit of a ticket containing *five names*, all for Congress. The ticket was carefully deposited with the clerk of Cecil county, by the judges, and a true copy, under his official seal, has been submitted to the committee, with the affidavits of the judges and clerk, stating that the petitioner was allowed *a vote* on account of that ticket.

The committee will observe that the judges, in this case, erred in a question of law, and not of fact, and that, upon every principle of law, and, indeed, of good sense, this ticket should have been rejected. By the election law of Maryland, it was an absolute nullity. But, in the nature of things, it must be so, even if no positive statute existed upon the subject.

What would be done in the case of a ballot for a committee of seven, if, upon counting out, a ticket should be found with *ten names* upon it? or if, in balloting for a Speaker, a ticket should be found with two or three names upon it? We all know that such tickets must, upon the principles of reason and justice, be null and void. Mr. Chairman, I respectfully apprehend that it is altogether unnecessary to attempt further to illustrate or enforce this part of the subject, and feel the most entire confidence that the committee will deduct this ticket from the poll of the petitioner, to which it ought never to have been added.

I will next call the attention of the committee to a vote given to the petitioner in Kent county, by Theo-

dore Burr. This man had no residence in Kent county at all, except merely going there and undertaking to build a bridge, and being actually in the county part of his time, on that account.

His residence, if he had any in Maryland, was in Cecil county, and not in Kent, where he voted. He had been sued in Cecil, as his proper county, (and, by the law of Maryland, a person must be sued in his proper county,) and "prosecuted to judgment, and an execution had been issued and served upon his body, returnable, and was returned, to the April court of that county in 1820. At that court, Mr. Burr was committed to jail, where he remained until late in June, or early in July. After this he went to Kent, and, on the first Monday of October in that year, voted for the petitioner. The certificate of the clerk of Cecil county, already laid before the committee, the law of Maryland referred to, and the deposition of James Coleman, fully prove this statement. This man had nothing in Kent county deserving the name of residence at the October election; but, whatever he had, it was not of six months' previous continuance as required by law to entitle to a vote.

I will also ask the attention of the committee to the vote of Thomas Glanvill, given in Kent, for the petitioner. Glanvill had no residence. That he had no residence, is fully proved by George Cooper, and that he voted for the petitioner, is proved by Morgan Brown, the present sheriff of Kent county. I refer to their depositions before the committee.

I will ask permission, Mr. Chairman, to present another case to the view of the committee.

Gideon Lusby voted for the petitioner, and was under age at the time. I refer to the deposition of Joseph Massey to prove this. Here then are *four votes* to be deducted from the poll of the petitioner, which will establish a decided majority against him. And it should not be forgotten that the depositions in these cases were not *ex parte*, but were taken in the presence of the petitioner, who *cross-examined* the witnesses. I am aware, however, Mr. Chairman, that objections may be made to this kind of testimony, and am prepared to support it, both upon principle and precedent. But no objection can properly now be made by the petitioner, because he entered into the evidence himself, by instituting a cross-examination, and it is believed that no serious difficulty can be raised by any one to this course of proceeding. It is as common as it is easy to make off-hand superficial objections to any thing.

What is the great difficulty in receiving this evidence? Sir, I have often felt surprised to hear the answer. It is said, by giving a man's declarations in evidence, you make him a witness against himself! Surely, if a man of any understanding ever advanced this proposition, it must have been without consideration. Is it not a principle of general law that you can give a man's declarations or acknowledgments in evidence against him, both in civil and criminal cases? You cannot give a man's declarations in evidence *for* him, nor can you compel him to be a witness against himself; but if he, without compulsion, confess or declare a matter which may operate against him, either civilly or criminally, this may be properly given in evidence against him. I said this was a principle of general law, but perhaps I might have said of universal law. Such a confession, it is true, may affect a *particeps criminis* to a certain extent, or it may have a qualified effect upon one having an interest in the

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subject to which the confession or declaration relates ; and certainly it ought to have these effects. Innumerable instances might be put to illustrate this principle, but I fear I shall be tedious. In the State of Maryland, two years ago, after much consideration, it was solemnly determined that this kind of evidence should be received and acted upon. Nor is it any answer to this case to call it a high-handed measure of party, &c. For such was not its character. And only last winter the General Assembly of Maryland issued a commission to three persons in Cecil county, authorizing them to take testimony relative to illegal votes. But, Mr. Chairman, the principle has been sanctioned again and again by Congress ; and, in addition to the cases heretofore named to the committee, I will, on the present occasion, only notice one ; it is a case decided from Tennessee, in the thirteenth Congress : Thomas and Kelly. The circumstances of this case will be found applicable to the case before the committee. If I have been able to make myself understood by the committee, I presume there is a final end of the petitioner's claim. It is less substantial than the shadow of a shade.

Perhaps I owe an apology to the committee for the trouble I have given them in this case ; but I trust they will credit me when I assure them that my prevailing wish has been, from the beginning, to render their investigation as easy and agreeable as possible. In the present communication I have deemed it advisable, for the sake of brevity, to omit a number of circumstances which are of some importance to the different views which might be taken of this case.

JEREMIAH CAUSDEN.

To the Hon. JOHN SLOAN,
Chairman of the Committee of Elections.

BANKRUPT BILL.

The House then resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy throughout the United States.

The amendment moved by Mr. TRACY, on Saturday last, being under consideration,

Mr. NEALE, of Maryland, moved to strike out the part of the amendment which limits the privilege to others than merchants to take the benefit of the act, to a period "within twelve months from the time of passing this act."

This motion was assented to by Mr. TRACY, and supported by him and Mr. SERGEANT, Mr. NEALE, and Mr. WRIGHT, and opposed by Mr. CUTHBERT, Mr. TUCKER, of Virginia, and Mr. NELSON, of Virginia ; when Mr. WOODSON, after some prefatory remarks, in which he expressed his dissent to the proposition before the House, submitted the following amendment, to be inserted next after the words, "and provided also."

"That all classes of the community, other than the description of persons before mentioned, shall have the privilege, at their election, of becoming voluntary bankrupts, with the consent and approbation of a major part in value of all the creditors of such voluntary bankrupt, previously obtained and duly certified, and that such bankrupt shall be subjected to the same proceedings, and liable to the same penalties, fines, and forfeitures, and be entitled to all the privileges, benefits, and advantages, as are provided for, and made applicable to, all other bankrupts by the regulations of this bill."

The amendment was approved by Messrs. TRACY, WRIGHT, BALDWIN, and SERGEANT, on the ground that it was essentially similar to that proposed by the gentleman from New York, (Mr. TRACY,) and for various other reasons.

It was opposed by Messrs. MITCHELL, of South Carolina, ROSS, and NELSON, of Virginia, and negatived.

Mr. EDWARDS, of North Carolina, then submitted the following amendment, to be inserted in the 47th line of the 1st section :

"And provided, also, that the discharge which may be given to a bankrupt under this act, shall not operate so as to discharge the bankrupt from debts which may be due to merchants, bankers, brokers, factors, underwriters, or marine insurers."

The question was taken thereon, and the amendment was negatived.

Mr. KENT, of Maryland, then proposed the following amendment :

"That no certificate of discharge, under the provisions of this act, shall operate to discharge any bankrupt from any debt or debts, except such as may be due or owing to persons who may be liable to become bankrupts under the said act."

This amendment was also negatived.

Mr. WOODSON then moved that the Committee rise and report, to the end that liberty to sit again be refused, and the subject finally disposed of : for he considered that the valuable properties of the bill had been destroyed by the vote of the Committee refusing the amendment which he had moved.

Mr. SERGEANT hoped the Committee would not rise, and he suggested to the gentleman from Kentucky, (Mr. WOODSON,) that when the subject should come before the House he would have an opportunity again to present for consideration that amendment, which he deemed so essential to the value of the bill.

The motion to rise and report was then taken and lost.

The second section having been read, Mr. WALWORTH submitted the following amendment, to be inserted in the 26th line :

"And shall also prove, by his own affidavit or otherwise, that the person petitioned against shall have committed an act of bankruptcy as aforesaid."

This amendment was supported by the mover ; and, after some further observations on the subject, by Messrs. SERGEANT, COLDEN, and ROSS, the question was taken thereon and lost, without a division.

The third and fourth sections were then successively read, without proposition of amendment.

The fifth section having been read, Mr. RHEA proposed to strike out all that part thereof which follows the word "and" in the tenth line, which authorizes the breaking of doors to take the body of the bankrupt.

Mr. RHEA made the motion on the ground that it was a most extraordinary provision. The bankrupt might perhaps be in the house without the knowledge of the owner, and he thought this part

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of the section was repugnant to every principle of law, of common justice, and the security of private habitation, which was guarantied by the fundamental principles of the social compact.

The question was then taken on Mr. RHEA's motion, and decided in the negative.

The subsequent sections of the bill, from the sixth to the twentieth, both inclusive, were successively read, without proposition of amendment.

The twenty-first section having been read—

Mr. RHEA moved to strike out the word "probable" in the second line and to insert in lieu thereof the word "good," as precedent to the cause for issuing a warrant, &c., which being put, the same was negatived without a division.

The twenty-second to the thirty-fourth sections inclusive were also read, seriatim, without proposition of amendment.

The thirty-fifth section having been read—

Mr. FULLER, of Massachusetts, submitted the following amendment to be inserted after the word "commission," in the tenth line of the section:

"Except, however, all debts due from the bankrupt for supplies of provisions, wearing apparel, household furniture necessary for himself and his family, and for laborers' wages; but all such debts shall remain, and may be recovered, so much as may be due after any dividend or partial payment thereon, notwithstanding the certificate aforesaid, or anything done pursuant to this act: *Provided, however,* That no single debt so excepted shall exceed the amount of two hundred dollars."

After some remarks by the mover in favor of this amendment, and by Mr. RHEA against it, the motion was negatived.

The thirty-sixth, thirty-seventh, thirty-eighth, and thirty-ninth sections of the bill having been read, without proposition of amendment, the Committee, on motion, at four o'clock, rose and reported progress.

In the House, the question having been put on granting leave to sit again—

Some conversation took place between Mr. NELSON, of Virginia, against granting leave to sit again, and Mr. WRIGHT, Mr. BUCHANAN, and Mr. SERGEANT, in favor of it. Finally, the leave was granted; and then the House adjourned.

TUESDAY, March 12.

A new member, to wit: from the State of New York, STEPHEN VAN RENSSELAER, elected to supply the vacancy occasioned by the resignation of Solomon Van Rensselaer, appeared, produced his credentials, was qualified, and took his seat.

The SPEAKER laid before the House a certificate of the election of STEPHEN VAN RENSSELAER, as one of the Representatives of the State of New York; which was referred to the Committee of Elections.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the petition of Jonathan Hampton, and others, reported a bill for the relief of James Miller, John C. El-

liot, Noah Hampton, James Erwin, and Jonathan Hampton; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act for the establishment of a Territorial government in Florida," reported the same without amendment, and it was committed to the Committee of the whole House on the state of the Union.

Mr. KENT, from the Committee for the District of Columbia, reported a bill securing to mechanics and others payment for their labor and materials in erecting any house or other building within the City of Washington, in the District of Columbia; which was read twice, and committed to a Committee of the Whole.

Mr. RANKIN, from the Committee on the Public Lands, reported the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to deliver to the claimants, or their legal representatives, or any person legally authorized by them to receive the same, or to the person who may have made the relinquishment required, or deposited the evidences of claim, with the commissioners appointed under the act of Congress of the thirty-first of March, eighteen hundred and fourteen, entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory," all deeds, conveyances, releases, and other papers which may have been deposited, under the provisions of the aforesaid act, where any claim has been adjudged invalid, by said commissioners, and on which no scrip has issued to the claimant or claimants.

The resolve was read twice, and, on motion of Mr. GILMER, was ordered to lie on the table.

The resolution submitted yesterday by Mr. COOK, calling for information from the Treasury Department, relative to the receipt of uncurrent notes of the Bank of Edwardsville, &c., was taken up and agreed to.

Mr. WALWORTH laid on the table the following joint resolution, viz:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as part of the said Constitution:

That, until Congress shall establish uniform laws on the subject of bankruptcies throughout the United States, it shall be lawful for the several States, or any of them, to enact bankrupt or insolvent laws, in the same manner, with the like effect, as they might have done previous to the adoption of the Constitution of the United States.

The said resolution was ordered to lie on the table.

On motion of Mr. MOORE, of Alabama, the Committee on Indian Affairs were instructed to inquire into the propriety of reporting a bill authorizing the payment for property lost by the friendly

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Indians during the Creek war, in conformity to the Treaty of Fort Jackson in 1814.

On motion of Mr. STERLING, of New York, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing the President of the United States to cause to be collected into one or more volumes, all the laws, resolutions, reports, proclamations, treaties, and such other information, connected with our public lands, as is necessary to a complete understanding of the same; and that he cause the said laws, &c., to be arranged under distinct and proper heads, so as to give a clear and correct view of their present situation.

The bill from the Senate, entitled "An act supplementary to the several acts for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans," was read twice, and committed to the Committee on the Public Lands.

The resolution from the Senate, "proposing an amendment to the Constitution of the United States as it respects the choice of President and Vice President of the United States, and the election of Representatives in the Congress of the United States," was read twice, and committed to the Committee of the Whole House on the state of the Union.

SALE OF PUBLIC LANDS.

Mr. MOORE, of Alabama, submitted for adoption the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of authorizing the sale of public lands by entry, in lots of forty acres.

Mr. MOORE spoke briefly in support of his motion on the ground that it would cause some land to be sold which otherwise never would, and would enable honest but poor men to become proprietors, &c.

The resolution was decidedly opposed by Mr. COCKE, Mr. FLOYD, and Mr. HILL, on the ground that the Government had been already sufficiently liberal to purchasers of the public lands; that, if persons were allowed to take out forty acres, including the springs wherever found, the remainder of the land would be of no use but to the owners of the springs, and would be purchased by them at their convenience; that, if the lands spoken of by the gentleman were now unsaleable in larger quantities, it did by no means follow that they ever would be, &c.

Mr. STERLING moved to lay the resolve on the table; which motion was negative.

The question was then put on agreeing to the original motion, and decided in the negative. So Mr. MOORE's proposition was rejected.

Mr. MOORE, of Alabama, then submitted the following resolution for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of granting pre-emption rights to settlers on the public lands, prior to the — day of —, 1819.

The question to agree to the resolve was decided in the negative by a decided vote.

HEMP AND FLAX MACHINE.

Mr. BUTLER, from the Committee on Agriculture, made a report favorable to the petition of Anthony Dey and James McDonald, praying for encouragement by Congress of their invention for the breaking and dressing flax and hemp, &c., recommending a reference of the petition to the Committee on the Judiciary, with a view to an examination on the bearing of the patent laws; which was agreed to. The report is as follows:

The Committee on Agriculture, to which was referred the petition of Anthony Dey and James Macdonald, report: The petition alleges, that the said Macdonald, at the expense of the said Dey, has invented and constructed a new and useful machine for breaking and cleaning of hemp and flax, in an unrotted state, and that the said Dey has discovered the means by which hemp and flax, after being cleaned in an unrotted state in their machine, may be bleached by a process hitherto unknown; that they believe their method of dressing hemp and flax is of very great importance to the agricultural interest of the country, and, therefore, ask an extension of the exclusive right to make, construct, use, and vend, to others to be used, the said invention and discovery.

From the evidence adduced by the petitioners, it appears that they have invented a machine for breaking and cleaning hemp and flax, in an unrotted state, which is different in its principles and construction from any machine that ever has been used for that purpose, and that the said Dey has also discovered a process, never before used, for bleaching hemp and flax after it has been dressed in an unrotted state. And, also, it appears by the certificates of respectable gentlemen, who have witnessed the operation of the machine, that it will, by the power of one horse, with the assistance of one man and three boys, separate the integument and wood from the fibrous part of the hemp and flax plants, and clean the same, at the rate of one pound in a fraction of time over a minute, fit for bleaching.

The petitioners further assure us, from the operation of one machine by horse power, with the attendance of one man and three boys, from 1,600 to 2,000 pounds of unrotted hemp or flax, may be cleaned in a day, yielding from 400 to 500 pounds after it is bleached; and that, by the addition of another machine, which can be moved by the same horse, with the addition of one man and one boy more, from 800 to 1,000 pounds may be cleaned at an expense not exceeding five dollars. And the committee are informed by Mr. Dey that one man can bleach 350 pounds of hemp or flax, after it has been cleaned by their machine in a day, at an expense of one dollar and seventy-five cents for the article which he uses in the process.

From these calculations, it appears that any quantity of unrotted hemp or flax taken from the field, where it is raised, may be broke, cleaned, and bleached, at a rate of less than two cents per pound, delivered in a bleached state; and, allowing one cent per pound for the plant, as it comes from the field, the whole cost, (except for the wear of the machine,) in growing this valuable plant, and breaking, cleaning, and bleaching it, will be less than six cents per pound. The committee are not informed what the cost of hatching or combing it, (which is done after it is bleached,) and preparing it for the manufacturer, would be, but presume it will not exceed two cents per pound. If

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the information the committee have received, and their calculations, are correct, either hemp or flax may be raised, dressed, and prepared for the best manufacture, at an expense of eight cents, and not exceeding in any case ten cents, per pound.

By the experiments of the petitioners, and others, it is found that flax, dressed and hatchelled in the ordinary way, after it has been dew-rotted, yields nine pounds from one hundred pounds of the plant which has been rotted, being sixteen pounds less than is produced from one hundred pounds of unrotted flax, cleaned and bleached by the method which the petitioners have discovered. But no experiments have yet been made to determine the difference in the weight of the plant, before and after it is rotted; therefore, it cannot now be ascertained how much will be saved, in quantity, by this method of breaking and cleaning it before it is rotted. It cannot, however, be doubted, that the common process of rotting flax, especially by dew, destroys or injures many of its fibres, and, of course, the quality, as well as the quantity, must be, in some degree, diminished.

The committee have examined the machine, and have seen it operate, and believe it will prove one of the most important and valuable discoveries. The committee have, also, examined the hemp and flax which has been bleached in this new method and hatchelled, and find that the colored matter and harshness of the fibres are removed, and that the flax is rendered very white, and as soft and fine as silk. This method of bleaching hemp and flax, it is believed, will be of great value to the grower and manufacturer of these plants.

Considering hemp and flax among the most valuable plants which can be cultivated in this country, and believing there is an abundance of soil in every State in the Union which is well adapted to their culture and growth, the committee are highly pleased with the invention and discovery of the petitioners. If hemp and flax can be raised in this country as easily and as cheap as in any other, and these inventions should prove as valuable as the committee believe they may, the cultivation of these plants will engage the attention of a large portion of the agriculturists, and become exceedingly important to the United States. It may be seen by the statement of the Secretary of the Treasury, of the quantity and value of merchandise imported, that, during the year ending on the 30th of September, 1821, 86,192 cwt. of hemp, valued at \$510,489, (being about \$120 per ton;) hempen goods, of the value of \$226,174; duck and sheeting, of the value of \$894,276; cordage, of the value of \$107,868; and linens, bleached and unbleached, of the value of \$2,664,159, were imported into this country, amounting to \$4,302,963, and that the whole value of the exports of domestic and foreign produce of the same kind, amounted only to \$822,976, leaving the value of \$3,479,187 in the merchandise produced from the hemp and flax plants to be consumed in this country.

As the petitioners desire an extension of time, and further protection than is secured by the patent law in its present form, and as it is the peculiar province of the Committee on the Judiciary to report any revision or amendment of that law which may be deemed necessary, your committee recommend the adoption of the following resolution:

Resolved, That the Committee on Agriculture be discharged from the further consideration of the peti-

tion of Anthony Dey and James Macdonald, and that it be referred to the Committee on the Judiciary.

DUTIES ON IMPORTS.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom the subject was referred, by the resolution, on the 31st of January last, reported a bill supplementary to, and to amend, an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed March the 2d, 1799, and to repeal an act supplementary thereto, passed the 20th of April, 1818, and for other purposes; which bill was read twice, and committed to a Committee of the Whole. The bill is as follows:

Be it enacted, &c., That the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage," passed the 27th of April, 1816, and continued by an act passed on the 20th day of April, 1818, be, and the same is hereby, continued and made permanent.

Sec. 2. And be it further enacted, That, from and after the thirty-first day of December next, the sixth section of the act, entitled "An act for providing for the deposit of wine and distilled spirits in public warehouses, and for other purposes," passed the 20th day of April, 1818, shall be repealed, and cease to be in force; and the several acts relative to the time when bonds to be given for articles shall become payable, prior to the date of the said act, be, and the same are hereby, revived and continued in force, from and after the said thirty-first of December next, any thing in the said act to the contrary notwithstanding.

Sec. 3. And be it further enacted, That, from and after the thirtieth day of September next, the following duties shall be levied, collected, and paid, in lieu of the duties heretofore imposed by law, to wit:

A duty of ten per cent. *ad valorem* on all the articles contained in the first section of the act, entitled "An act to regulate the duties on imports and tonnage," which articles now pay a duty of seven and a half per cent.

A duty of twenty-five per cent. on all manufactures of cotton, wool, and linen, or of which either is a component part, not particularly specified; on articles of silk, or of which silk is a component part, the manufacture of India, China, or any other country beyond the Cape of Good Hope; on engravings; on ivory, shell, or horn combs; on Madras handkerchiefs, and other manufactures made of the bark of trees; on muffs and tippets.

A duty of thirty-three and a third per cent. on nankeens, the manufacture of any place beyond the Cape of Good Hope.

A duty of forty per cent. on ready made clothes.

The following duties, severally and specifically:

On lead, in pigs, bars, and sheets, two cents per pound;

On shot, manufactured of lead, three cents per pound;

On pewter, four cents per pound;

On pepper, ten cents per pound;

On pimento, eight cents per pound;

On ale, beer, and porter, in bottles, twenty cents per gallon;

On ale, beer, and porter, imported otherwise than in bottles, fifteen cents per gallon;

On Chinese cassia, ten cents per pound;

On cocoa, three cents per pound;

On chocolate, four cents per pound;

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On ginger, three cents per pound;
 On currants and figs, three cents per pound;
 On plums, prunes, muscatel raisins, and raisins in jars and boxes, four cents per pound;
 On all other raisins, three cents per pound;
 On filberts, three cents per pound;
 On molasses, six cents per gallon;
 On prunelle, and other shoes, or slippers of stuff, or nankeen, twenty-five cents per pair;
 On laced boots or bootees, one dollar and fifty cents per pair;
 On smoked salmon, one dollar per quintal;
 On linseed, palm, and hempseed oil, twenty-five cents per gallon;
 On manufactured tobacco, four cents per pound;
 On mercury and quicksilver, and all preparations of it, eight cents per pound;
 On beeswax, seven cents per pound;
 On butter, five cents per pound;
 On camphor, crude, ten cents per pound; refined, twenty cents per pound;
 On chamomile flowers, ten cents per pound;
 On feathers, for beds, five cents per pound;
 On flax, three cents per pound;
 On Roman cement, one cent per pound;
 On indigo, twenty-five cents per pound;
 On cochineal, one dollar per pound;
 On madder, two cents per pound;
 On vinegar, eight cents per gallon;
 On wool, six cents per pound;
 On all black teas, twenty-five cents per pound;
 On hyson-skin, and other green teas, not enumerated, twenty-five cents per pound;
 On Glauber salts, two cents per pound;
 On Epsom salts, three cents per pound;
 On coal, six cents per bushel;
 On pine apples, four cents each;
 On arrack, forty cents per gallon;
 On Cayenne pepper, fifteen cents per pound;
 On copper-bottoms, cut round, or still-bottoms, raised to the edge, four cents per pound;
 On copper, in plates or sheets, weighing more than thirty-four ounces persquare foot, four cents per pound;
 On copper plates, for engravers, four cents per pound;
 On hemp, two cents per pound;
 On iron, in bars and bolts, not manufactured by rolling, one dollar per hundred weight;
 On castings of iron, one dollar per hundred weight;
 On spikes of iron, four cents per pound;
 On nails, five cents per pound;
 On anvils, two cents per pound;
 On iron in sheets, rods, and hoops, three cents per pound;
 On iron cables, or chains, or parts thereof, three cents per pound;
 On spades and shovels, two dollars per dozen;
 On lard, three cents per pound;
 On opium, one dollar per pound;
 On soap, four cents per pound;
 On all printing paper, eight cents per pound;
 wrapping paper, six cents per pound;
 colored paper, six cents per pound;
 writing paper, twelve cents per pound;
 sugar-loaf paper, four cents per pound;
 letter or folio post paper, fifteen cents per lb.;
 book binders' band box, and sheathing paper, three cents per pound;
 On printed hangings, fifteen cents per pound;
 On all other papers, not enumerated, six cents per pound;

On wines, Madeira, sixty cents per gallon;
 Marsala, or Sicily Madeira, and other wines of Sicily, forty cents per gallon;
 Malaga and Colmenar, thirty cents per gal.;
 Fayal, thirty cents per gallon;
 Fayal, Pico Madeira, forty cents per gallon;
 Canary, thirty cents per gallon;
 On books, in sheets or boards, twenty-one cents per pound.
 when bound, twenty-eight cents per pound.

SEC. 4. *And be it further enacted*, That the following articles shall be imported free of duty, viz. books in ancient languages; books in modern foreign languages; books, maps, charts, instruments, and engravings, specially imported for the use of any State, or sent to philosophical or literary institutions, as donations, or by way of exchange.

SEC. 5. *And be it further enacted*, That, in lieu of the drawback heretofore allowed by law, there shall be allowed, from and after the thirtieth of September next, a drawback of five cents on every gallon of spirits, not below first proof, distilled within the United States, from molasses, subject to the provisions and regulations of an act entitled "An act to allow drawbacks of duties on spirits and sugar, refined within the United States, and for other purposes," passed the thirtieth day of April, eighteen hundred and sixteen, except as to the payment of the debenture, which shall be made conformably to an act passed the third March, eighteen hundred and twenty-one, entitled "An act to authorize the collectors of the customs to pay debentures issued on the exportation of loaf sugar, and spirits distilled from molasses."

SEC. 6. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandise, which, after the said thirtieth day of September, one thousand eight hundred and twenty-two, shall be imported in ships or vessels not of the United States: *Provided*, That this additional duty shall not apply to such goods, wares and merchandise, imported in ships or vessels not of the United States, entitled by treaty, or by any act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as are paid on goods, wares, and merchandise, imported in ships or vessels of the United States.

SEC. 7. *And be it further enacted*, That there shall be allowed a drawback of the duties by this act imposed on goods, wares, and merchandise, imported into the United States, upon the exportation thereof within the time, and in the manner, prescribed in the fourth section of the act, entitled "An act to regulate the duties on imports and tonnage," passed on the twenty-seventh day of April, one thousand eight hundred and sixteen.

SEC. 8. *And be it further enacted*, That the existing laws shall extend to, and be in force for the collection of, the duties imposed by this act on goods, wares, and merchandise, imported into the United States, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully, and effectually, as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing, in the existing laws contained, had been inserted in, and re-enacted by, this act.

SEC. 9. *And be it further enacted*, That the duties imposed by this act shall not be levied on goods imported in vessels of the United States from beyond the Cape of Good Hope, which shall have sailed from the

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United States before the passage of this act, and shall arrive therein between the thirtieth September, eighteen hundred and twenty-two, and the first day of October, eighteen hundred and twenty-three.

BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on the bill to establish a Uniform System of Bankruptcy throughout the United States.

The thirty-ninth section was read without any proposition of amendment.

The fortieth section having been read—

Mr. RHEA moved to strike out the words "good reason" and to insert in lieu thereof the words "probable cause," in the 12th line of the said section, which, the question being put, was negatived. No further amendment being proposed to that section, the same, with the subsequent sections of the bill, to the forty-eighth inclusive, were read without further proposition of amendment.

The forty-ninth section having been read—

Mr. RHEA moved to strike out the same altogether, which motion was put and lost, without a division.

The fiftieth section, to the sixty-third inclusive, were then successively read without any proposition of amendment.

Mr. SERGEANT proposed to introduce between the sixty-third and sixty-fourth sections the following:

Sec. 64. *And be it further enacted*, That it shall be the duty of the commissioners, appointed under the authority of this act, once in every year to make a report, and transmit the same to the Secretary of State, stating the number of persons who shall have been declared bankrupt, the number and amount of debts proved, the amount of property surrendered and of dividends declared, noting in each case any such particular circumstances as may have affected the amount of the surrender or the dividends, together with the costs which have accrued under each commission, with such general remarks upon the operation of the law, and proposals for its amendment, as may seem to them material.

The proposition was agreed to.

The sixty-fourth section, being the last section of the bill, was then read without proposition of amendment.

Mr. SERGEANT submitted the following, to be added at the end of the fourth section:

"And provided, also, that when the party against whom a commission is prayed for, as herein before provided, shall, by writing, signed and accompanying such petition, signify his concurrence in the prayer thereof, the commission may be issued and proceeded upon without any allegation, affidavit, or proof of an act of bankruptcy having been committed, in like manner as if the same had been fully established."

The amendment was agreed to, with some verbal amendments in the subsequent sections, to correspond with the amendment.

Mr. COLDEN submitted the following, to be added to the third section of the bill:

"But the said commissioners and clerk shall not be allowed to charge as for a whole day, unless they

have been actually employed in the same business six hours in the day for which a whole day is to be allowed; and that, where the said commissioners and clerks may not in one day be employed in the same business six hours, they shall be allowed only such a portion of five dollars as the time they are actually employed bears to six hours; but, in this calculation, fractions of hours shall not be regarded."

The amendment was negatived.

Mr. WOODCOCK, of New York, moved to strike out the last proviso to the seventh section; which motion was negatived.

Mr. WRIGHT, of Maryland, moved to insert in the bill, as the thirty-sixth section, the following:

"*And be it further enacted*, That any person or persons not entitled to the benefit of this act, who shall have been, or hereafter shall be, discharged by any State law, under the provisions thereof, shall be entitled to the benefit of said discharge, as fully as any bankrupt discharged by virtue of this act."

Mr. WRIGHT supported the amendment in a speech of considerable length.

Mr. SAWYER replied that the object which the amendment proposed to attain was sufficiently secured in the fifty-ninth section.

The question was then taken, and the motion was lost.

No further amendments having been offered, the Committee rose and reported the bill as amended.

The question was then taken on the several amendments as reported, and, with a modification of the last, they were respectively concurred in.

The question was then stated on ordering the bill to be engrossed for a third reading; when

Mr. TRACY proposed to amend the bill by adding to the first section the same amendment which he offered in Committee of the Whole, for admitting others than merchants to avail themselves of the benefit of the law.

On this question Mr. TRACY called for the yeas and nays, which were thereupon ordered; and decided in the negative—yeas 74, nays 90, as follows:

YEAS—Messrs. Baldwin, Barber of Connecticut, Bayly, Bigelow, Borland, Breckenridge, Burrows, Cambreleng, Campbell of New York, Cannon, Causden, Chambers, Cocke, Colden, Condict, Conkling, Cushman, Darlington, Durfee, Eddy, Edwards of Pennsylvania, Eustis, Findlay, Fuller, Gorham, Hawks, Herrick, Hill, Hubbard, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Keyes, Litchfield, Little, McCarty, Metcalfe, Milnor, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Newton, Pitcher, Rich, Rochester, Ruggles, Sanders, Sawyer, Scott, Sergeant, S. Smith, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stewart, Stoddard, Swearingen, Taylor, Tod, Tomlinson, Tracy, Walker, Walworth, Williamson, Wood, Woodcock, and Wright.

NAYS—Messrs. Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Ball, Barbour of Ohio, Bassett, Bateman, Baylies, Blair, Brown, Buchanan, Burton, Butler, Campbell of Ohio, Cassedy, Conner, Cook, Crafts, Cuthbert, Dane, Denison, Dickinson, Edwards of Connecticut, Edwards of North Carolina,

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Farrelly, Floyd, Gilmer, Gist, Gross, Hall, Harvey, Hobart, Hooks, J. S. Johnston, Jones of Virginia, Kirkland, Lathrop, Leftwich, Lincoln, Long, Lowndes, McCoy, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Mitchell of Pennsylvania, Mitchell of South Carolina, Nelson of Virginia, New, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Massachusetts, Reid of Georgia, Rhea, Rogers, Ross, Russ, Sloan, Arthur Smith, W. Smith, Alexander Smyth, Stevenson, Swan, Tatnall, Thompson, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Whipple, White, Williams of North Carolina, Williams of Virginia, Wilson, Woodson, and Worman.

Mr. EDWARDS, of North Carolina, then moved to amend the said bill, by inserting after the word "act," in the 47th line of the first section, the following provision, viz:

And provided, also, That no certificate of discharge under the provisions of this act, shall operate to discharge any bankrupt from any debt or debts, except such as may be due or owing to persons who may be liable to become bankrupts under this act.

And the question being taken thereon, it was determined in the negative—yeas 71, nays 87, as follows:

YEAS—Messrs. Alexander, Allen of Tennessee, Archer, Ball, Barber of Ohio, Bassett, Bateman, Blair, Breckenridge, Brown, Buchanan, Burton, Campbell of Ohio, Cannon, Condict, Darlington, Edwards of North Carolina, Floyd, Gilmer, Gist, Hall, Hooks, Jackson, F. Johnson, J. T. Johnson, Kent, Keyes, Leftwich, Litchfield, McCoy, McNeill, McSherry, Matlack, Mitchell of Pennsylvania, Moore of Alabama, Murray, Neale, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Plumer of New Hampshire, Reid of Georgia, Rochester, Ross, Scott, Sloan, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Sterling of New York, Stevenson, Stewart, Stoddard, Swan, Swearingen, Thompson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Van Wyck, Walker, Walworth, Williams of North Carolina, Williams of Virginia, Wilson, Woodcock, Woodson, and Wright.

NAYS—Messrs. Allen of Massachusetts, Baldwin, Barber of Connecticut, Baylies, Bayly, Bigelow, Blackledge, Borland, Burrows, Butler, Cambreleng, Cassidy, Causden, Chambers, Cocke, Colden, Conkling, Conner, Crafts, Cushman, Cuthbert, Dane, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Farrelly, Findlay, Fuller, Gorham, Gross, Harvey, Hawks, Hill, Hobart, Hubbard, J. S. Johnston, Jones of Tennessee, Kirkland, Lathrop, Lincoln, Little, Long, Lowndes, McCarty, Mallary, Matson, Mattocks, Mercer, Milnor, Mitchell of South Carolina, Moore of Pennsylvania, Moore of Virginia, Morgan, Nelson of Virginia, New, Patterson of New York, Pitcher, Plumer of Pennsylvania, Poinsett, Reed of Massachusetts, Rhea, Rich, Rogers, Ruggles, Russ, Sanders, Sawyer, Sergeant, S. Smith, Spencer, Sterling of Connecticut, Tatnall, Taylor, Tod, Tomlinson, Upham, Vance, Whipple, White, Whitman, Williamson, Wood, and Worman.

Mr. WOODSON then moved to amend the said bill by inserting, after the word "act," in the said

47th line of the first section, the following words, viz:

"Unless with their consent; and they, and all other classes of the community, shall have the privilege, at their election, of becoming voluntary bankrupts, with the consent and approbation of a major part in value of all the creditors of such voluntary bankrupt, previously obtained and duly certified, and that such bankrupt shall be subjected to the same proceedings, and liable to the same penalties, fines, and forfeitures, and be entitled to all the privileges, benefits, and advantages, as are provided for, and made applicable to, all other bankrupts, by the regulations of this bill.

Mr. BRECKENRIDGE said, he did not rise for the purpose of discussing the merits of the amendment proposed by his colleague, (Mr. WOODSON.) He felt that, to enter now into that discussion, would be an unpardonable consumption of the time of the House. He only desired to inform the honorable gentleman from Pennsylvania, (Mr. SERGEANT,) and the friends of the bankrupt bill, that without some such provision as that offered by his colleague, the bill would not be supported by many who would advocate a law, embracing, under proper restrictions, all classes of the community. You have a right, sir, to pass uniform laws on the subject of bankruptcy. But are you bound to confine its operations to merchants only? And does not policy and justice alike require that the remedy should be commensurate with the evil? Will you not extend it to the mechanic, or any other class of your citizens, who may be subject to the vicissitudes of fortune? The citizens of the West are a trading people; they are all more or less engaged in that species of traffic, from which pecuniary embarrassment may arise. The East and the North desire that merchants only shall be embraced by the law. But, whilst they are relieved from the pressure of misfortune, will they not also lighten the burden of their brethren? He warned the friends of the bankrupt law, that if they rejected the proposed amendment, the bill itself would, in the end, be also rejected. Those opposed to the bankrupt bill, would not aid in its amendment—it must be done by the friends of the measure, or the whole is lost.

Mr. J. SPEED SMITH said that, as he had consumed no portion of the time of the House upon the motion to strike out the first section of the bill, and as he had no wish to go into a discussion of the constitutionality or expediency of the proposed system, he expected to meet the indulgence of the House whilst he offered a few remarks in support of the amendment offered by one of his colleagues, (Mr. WOODSON,) to those already presented by his friend from Kentucky, (Mr. BRECKENRIDGE,) who had just taken his seat.

In all general propositions, said Mr. SMITH, containing principles offered for legislative sanction, which are to operate as rules of conduct throughout a whole nation, there must necessarily be a concession of judgment and interest to a given extent. Otherwise, in a Government like ours, diversified at first by the hand of nature, propelled by contrariant interests in different directions, and chequered by the operations of municipal

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regulations, it would be impossible to advance the great common interest of the nation. It should not, therefore, be expected by the friends of the measure, that the interest and advantage of their immediate constituents alone, are to be consulted; nor should it be concluded by the advocates of the bill, that no other views but their own are worthy of consideration. Upon this floor, continued Mr. S., the feelings and interests of every class are, or should be, represented. It would most surely be unwise, and a violation of our duty, to legislate for the benefit of any class, to the exclusion of all others, unless in some special cases. This, sir, is a proposition to create, by legislative enactment, a uniform system of bankruptcy throughout the United States. The policy, and, in the opinion of some most respectable gentlemen, the necessity, of this measure, grow out of the embarrassments and difficulties of a very large and meritorious class of our fellow-citizens, who have been engaged in commerce. Whilst I admit, said Mr. S., the great advantages which the country has received, and will continue to receive, from the enterprise and industry of commercial men; and whilst I recognise their right to be represented here, and declare my sympathies for their misfortunes, and readiness to lend my aid in all legitimate measures for their relief, I cannot forget that they constitute but a very small portion of the whole community, to all of whom the principle of the bill should be applied, whenever it shall pass into a law.

The avowed object of the bill, sir, is to dissolve from all legal liability for debt the unfortunate man who has been overwhelmed by adversity, and thus redeem him from what has been pronounced cruel, unnecessary, and unmerited vassalage. Why confine the operation of your benign intention to persons designated in the bill? I affect not to know, sir, much about the wants and interests of commerce and trade, in our large cities and seaport towns; but I claim some knowledge of the situation of farmers and other persons not included in the bill, and, without undertaking to say that a bankrupt law is desired by them, I will venture the assertion, that it would be unfair and unequal to pass one without giving them the benefit of it. We are told, continued Mr. S., that commerce and trade demand the passage of this bill. Would you exclude agriculture, sir, upon which they both depend? If, from the operation of causes over which persons engaged in commerce and trade had no control, hundreds and thousands of our fellow-citizens have been ruined and undone, does it necessarily follow that those engaged in agriculture and other pursuits have not met with like calamities? In that country which has honored me with a seat here, and which is essentially an agricultural country, men engaged in commerce and trade do not constitute any thing like a majority of those who ought to be benefited by the provisions of the bill upon your table? From the paper system, which has been sanctioned not only by Kentucky and many other States in the Union, but by the Federal Government itself, many individuals, other than

merchants and traders, have been undone, not by adventuring, said Mr. S. beyond their means, in commerce and trade, for the accumulation of wealth and the enjoyment of splendor; not with the hope of buying principalities and erecting palaces; no, sir, by yielding to the influence of those noble and generous feelings which adorn our nature—the feelings of friendship—many beyond the mountains, who, but a little while back, were living upon their farms in ease and independence, if not affluence, have found themselves suddenly ruined, and brought to poverty and want—not by their own prodigality, sir, but by bank endorsements and other securityship—for whom? Men engaged in commerce and trade. Can it be right, sir, can it possibly be right, that he who has been urged on by cupidity or ambition, and in the furtherance of those passions has surrounded himself, in his progress, by individuals drawn to him by feelings of partiality and friendship, when he sinks into ruin, and overwhelms his friends in his fall—can it be right, sir, I ask, to redeem him, and leave them hopeless, despondent, undone? If the individual thus redeemed looks with gratitude and love to his country, what must be the reflections of those whom he has undone, and their country leaves in ruin, when they draw a comparison of their situations? If you strengthen the attachment of the first to his country, you alienate the affection of the other.

The bill should also be clearly retrospective in its operation and power of redemption; otherwise, thousands of meritorious citizens will derive no benefit from its passage; and, if you do interpose, do it efficiently—let us have a general jubilee.

I do not speak, said Mr. S., of the situation of those who wish this law, in the large commercial cities of the Union. I speak of those in the West, the causes of whose embarrassments I better understand, and whose claims to all the advantages proposed by the bill are at least equal to the claims of any other portion of this great community.

In conclusion, sir, there is no punishment unaccompanied with ignominy, which I would not undergo rather than give my support to a measure which, if it does pass, should operate for the benefit and advantage of the whole people, but which, as the bill now stands, will be partial and unjust. I shall, therefore, with great pleasure, vote for the amendment.

Messrs. Ross and Cook spoke against the motion; when

The question being taken on thus amending the bill, it passed in the affirmative—yeas 86, nays 78, as follows:

YEAS—Messrs. Allen of Massachusetts, Baldwin, Barber of Connecticut, Bateman, Bayly, Bigelow, Borland, Breckenridge, Burrows, Cambreleng, Campbell of New York, Cannon, Causden, Chambers, Cocke, Colden, Condict, Conkling, Crafts, Cushman, Darlington, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Findlay, Fuller, Gorham, Hawkes, Herrick, Hill, Holcombe, Hubbard, Jackson, F. Johnson, J. T. Johnson, Kent, Keys, Litchfield, Little, McCarty, Metcalfe, Milnor,

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Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, New, Patterson of New York, Pitcher, Plumer of Pennsylvania, Rankin, Rich, Rochester, Rogers, Ruggles, Ross, Russell, Sanders, Sawyer, Scott, Sergeant, S. Smith, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stoddard, Swan, Swearingen, Taylor, Tod, Tomlinson, Tracy, Walker, White, Whitman, Williamson, Woodcock, Woodson, and Wright.

YAYS—Messrs. Alexander, Allen of Tennessee, Archer, Ball, Barber of Ohio, Bassett, Baylies, Blackledge, Blair, Brown, Buchanan, Burton, Butler, Campbell of Ohio, Cassidy, Conner, Cook, Cuthbert, Dane, Denison, Dickinson, Edwards of North Carolina, Floyd, Gilmer, Gist, Gross, Hall, Harvey, Hooks, J. S. Johnston, Jones of Virginia, Kirkland, Lathrop, Leftwich, Lincoln, Long, Lowndes, McCoy, McDuffie, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Mitchell of Pennsylvania, Mitchell of South Carolina, Nelson of Virginia, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Poinsett, Reed of Massachusetts, Reid of Georgia, Rhea, Ross, Sloan, Arthur Smith, W. Smith, Alexander Smyth, Stevenson, Tatnall, Thompson, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Whipple, Williams of North Carolina, Williams of Virginia, Wilson, and Worman.

Mr. FULLER then moved further to amend the said bill, by inserting, after the word "commission," in the 7th line of the 35th section of the printed bill, the following, viz:

"Except, however, all debts from the bankrupt for supplies of provisions, wearing apparel, household furniture necessary for himself and his family, and for laborers' wages; but all such debts shall remain and may be recovered, so much as may be due after any dividend or partial payment therein, notwithstanding the certificate aforesaid, or any thing done pursuant to this act: *Provided, however,* That no single debt, so excepted, shall exceed two hundred dollars."

And on the question to agree to this amendment, it was determined in the negative.

Mr. WALWORTH then moved further to amend the said bill, by inserting, after the word "debts," in the 26th line of the 2d section of the printed bill, the following, to wit:

"And prove to the said judge, by the affidavit of such petitioner or petitioners, or by the oath of one or more credible witness or witnesses, that an act of bankruptcy, as mentioned in the first section of this act, has been committed by the person petitioned against within six months then last past."

And on the question to agree to this amendment, it was determined in the negative.

No further amendment having been offered to the bill, the question recurred upon ordering the bill to be engrossed for a third reading; on which question Mr. RHEA called for the yeas and nays, which were thereupon ordered.

Mr. BUCHANAN, of Pennsylvania, addressed the Chair as follows:

Mr. Speaker: Before the amendment proposed by the gentleman from Kentucky had obtained the sanction of this House, the question whether the bill should be engrossed for a third reading, was

one of very great importance. That question has, however, dwindled into insignificance, compared with the one at present under consideration. We are now called upon to decide the fate of a measure of awful importance. The most dreadful responsibility rests upon us. We are not now to determine, merely, whether a bankrupt law shall be extended to the trading classes of the community; but whether it shall embrace every citizen of this Union, and spread its demoralizing influence over the whole surface of society.

The amendment which has been adopted to-day, makes it my imperative duty, even at this protracted period of the debate, to trespass upon the patience of the House. I have the honor, in part, of representing an honest, a wealthy, and a respectable, agricultural community. I owe it to them, to my conscience, and to my God, not to suffer this bill to pass, which I conceive to be now fraught with destruction to their best interests, both moral and political, without entering my solemn protest against its provisions.

We have heard it repeated over and over again, by the friends of a bankrupt bill, that it should be confined to the mercantile classes. One of the principal arguments urged in its favor, by its eloquent supporters, was, that merchants, from the nature of their pursuits, were exposed to the vicissitudes of fortune more than other men; and that therefore their situation required a peculiar system of laws. That, in this country, their fortunes had not only been exposed to the dangers commonly incident to their profession; but, that the commercial regulations of the Government, the embargo, the non-intercourse laws, and finally the war, had brought ruin upon thousands. It was, therefore, inferred, that Congress were under a moral obligation to pass a bankrupt law for their relief.

The policy of all the modern commercial nations in the world, was presented before us for our imitation. England, France, Scotland, Ireland, Holland, and Spain, we had been told, each extended a bankrupt law to the merchant, and absolved him from the payment of his debts, upon certain conditions. Indeed, a great portion of the argument consisted in drawing a line of distinction between traders and the remaining classes of society.

Judge then, Mr. Speaker, of my astonishment, when to-day I found those very gentlemen voting in favor of introducing an amendment, extending the provisions of this bill to every individual in society, who might ask to become its object.

Will you pass a bankrupt law for the farmer? Will you teach that vast body of your best citizens to disregard the faith of contracts? Are you prepared to sanction a principle by which the whole mass of society will be in danger of being demoralized, and it will be left to an election by every man's creditors, in which a majority of two-thirds in number and value, against the consent of the remainder, shall have the power of discharging him from the obligation of all his contracts? Surely the House of Representatives are not prepared to answer these questions in the affirmative. No nation in the world, whether commercial or

agricultural, whether civilized or savage, has ever for a moment entertained the idea of extending the operation of their bankrupt laws beyond the class of traders. Fortunately for our constituents, we have not the power of doing so. The Constitution, correctly expounded, has proclaimed "hitherto shalt thou go, but no farther." Nothing but a desperate effort to revive this expiring bill, could have ever induced its friends to have adopted the amendment which has just now been carried.

In the discussion of this question, I can assure the House, it is not my intention to travel over the ground which has been already occupied, or to repeat the arguments which have been already urged.

The subject naturally divides itself into two questions—the one of Constitutional power, the other of policy. On the first, as the bill stood before the introduction of the last amendment, I had not a single doubt. Much as I would have deprecated the passage of the then bill, I should have been infinitely more alarmed if this House had determined that the enactment of such a law transcended the Constitutional power of Congress. Upon this branch of the subject, the ingenious arguments of the gentleman from Virginia had not created a doubt in my mind. Where doubts before did exist, the argument of the gentleman from South Carolina (Mr. LOWNDES) and of my honorable colleague (Mr. SÉRGÉANT) were, in my opinion, calculated entirely to remove them, and to carry conviction to every understanding.

A new question of Constitutional power has now arisen on the amendment. The Constitution declares that "the Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States." To this provision I am willing to give a fair and a liberal construction. Congress have the power to discharge from their debts, on the terms prescribed by the bill, all persons upon whom a law, emanating from this clause of the Constitution, may legitimately act. But can Congress make a law extending the penalties and the privileges of a bankrupt system to every individual in society? Can they embrace in its provisions the farmer, the clergyman, the physician, or the lawyer? Such a proposition was never seriously contended for before this day.

By considering the meaning of the term *bankrupt*, we shall be able at once to solve the difficulty. In adverting to its origin, we find the literal signification of the word to be a broken counter; which by a figure of speech has been applied in our language to a broken merchant. In the commercial laws of all the nations of the continent of Europe, bankruptcy is confined to merchants, in the strictest sense of the word. The operation of the bankrupt laws of England has been extended, by judicial construction, somewhat further; and they now embrace within their grasp not only the merchant, properly so called, but all persons who are traders, and are concerned in buying and selling any kind of merchandise, unless they have been expressly excepted by some positive legislative provision. This exposition of the law extends not only to those who sell any commodity in the

same State in which they purchased it, but also to the manufacturer and the mechanic who bestow upon it their favor and their skill, and thus render it more valuable. The bill as it formerly stood confined itself strictly within this range. Indeed it was more circumscribed as to the persons on whom it would have operated than the bankrupt laws of England.

I am willing then to expound the power of Congress upon the subject literally. In construing the Constitution, Congress ought not to be fettered by nice technical rules. I admit that they have the power, whenever they think proper to call it into exercise, of establishing a system of bankruptcy which shall embrace all persons who have ever been embraced, even by the bankrupt laws of England. Further than this they cannot proceed, without extending the plain meaning of the word *bankruptcy* as it has been received by every commercial nation of Europe, and violating both the letter and the spirit of the Constitution.

In making this admission, I am sensible that many may suppose I am giving a latitude of construction to the instrument which is not warranted by its spirit. The authority "to establish uniform laws on the subject of bankruptcies throughout the United States" is contained in a clause of the Constitution which immediately follows that "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The power over bankruptcy evidently originated from, and is closely connected with that over commerce. This commerce, which Congress has the power of regulating, is chiefly if not exclusively conducted by merchants in the strictest sense of the term, and principally by that class of them denominated importers. They are the men most exposed to the vicissitude of trade, and on that account are more properly the objects of such a law than people of any other description. It might therefore with much plausibility be contended that the power of Congress over bankruptcy is confined to that description of merchants.

Another argument, which would give additional strength to this construction, arises from the general spirit of the federal institutions. They do not propose to embrace the internal policy of the States. The jurisdiction of the federal courts is confined by the Constitution to controversies between citizens of different States, and between foreigners and citizens of the United States. To such suits the merchants who carry on the intercourse with foreign nations, and between the different States, are most generally parties.

The object which I have in view in using these arguments is not to prove that the Constitutional power of Congress is confined to such merchants; but to show that it is contrary to the nature and the spirit of our Government to extend it to all classes of people in the community. The bill as it stood before the amendment went quite far enough. It would even then have brought the operation of the law and the jurisdiction of the federal courts, into the bosom of every community. The bill, however, as it now stands, if it should pass, will entirely destroy the symmetry of our system

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and make those courts the arbiters in almost every case of contract to which any member of society, who thinks proper to become a bankrupt, may be a party. It will at once be, in a great degree, a judicial consolidation of the Union. This was never intended by the framers of the Constitution. Some of the terrible evils which would flow from such a system I shall have occasion to delineate, when I come to speak of the policy of its adoption.

Before, Mr. Speaker, I proceed to expose to the view of the House those objections against this bill which have presented themselves with peculiar force to my mind, permit me to answer some of the principal arguments which have been urged in favor of its passage. My friend and colleague from Pennsylvania, in his concluding speech, has made such a clear, forcible, and eloquent argument in favor of the bill, that I fear it has produced a considerable effect. Upon this occasion he was listened to, as he always is, and always deserves to be, with the most profound attention. It is painful for me to be under the necessity of differing from him in opinion, and when I do so, I am almost inclined to distrust my own judgment. Nothing, therefore, but an imperative sense of duty could have induced me to take any part in the debate upon the present occasion.

It has been urged that, as the framers of the Constitution gave to Congress the power of passing a bankrupt law, we are bound to put that power into practical operation, and not suffer it to remain dormant.

In answer to this argument I would reply, that power and duty are very different in their nature. Power is optional; duty imperative. The language of power is that you may, that of duty you must. The Constitution has, in the same section, and in the same terms, given to Congress the power to declare war, to borrow money, to raise and support armies, &c. Will any gentleman, however, undertake to say, we are under an obligation to give life and energy to these powers by bringing them into action? Will it be contended that, because we possess the power of declaring war and borrowing money, that we are under a moral obligation to embroil ourselves with foreign Governments, or load the country with a national debt? Should any individual act upon the principle that it is his duty to do every thing which he has the legal power of doing, he would soon make himself a fit citizen for a madhouse.

Power, whether vested in Congress or in an individual, necessarily implies the right of exercising a sound discretion. The Constitution was intended not only for us, and for those who have gone before us, but for generations yet to come. It has vested in Congress ample powers, to be called into action whenever, in their sound discretion, they believe the interest or the happiness of the people require their exertion. We are, therefore, left to exercise our judgment on this subject, entirely untrammelled by any Constitutional injunction.

It has been said that the passage of such a bill as the one now before us is necessary, on account of the numerous frauds which are perpetrated under the insolvent laws of the States, and the preference which they authorize a failing debtor to give to particular creditors.

From the forcible manner in which this argument has been urged, one would be induced to suppose that the legislative authority of the States, upon this subject, had been entirely prostrated by the decision of the Supreme Court of the United States, in the case of *Sturges vs. Crowninshield*. This is, however, altogether a mistake. The citizens of the States have not been left exposed to the mercy of fraudulent debtors. They can look to their own Legislatures for relief. Their power to pass bankrupt laws is as ample within their several States as that of Congress, with one single exception: which is, that such laws shall not contain a provision "impairing the obligation of contracts." This tremendous power the people have decreed that the States shall not exercise. With the exception, therefore, of that portion of this bill which discharges a bankrupt from his debts, the Legislatures of the several States might, if they thought proper, enact all its provisions. They have the same power to pass every law for the prevention and punishment of the frauds of insolvent traders which Congress possess. They can equally annul all preferences which a failing debtor may give to a favorite creditor, whether by deed of trust, by judgment, or in any other manner. This principle is expressly recognised in the opinion of the Supreme Court of the United States in the case which I have cited. There is then no necessity that Congress should interfere for the purpose of securing the creditor; yet this has been urged as one of the principal reasons in favor of the passage of a bankrupt bill.

It cannot be denied that many of the States have neglected to exercise the authority which they fully possess over this subject. In the State, one of whose representatives I have the honor to be, a failing debtor of every description possesses too much power in the distribution of his property. He may, if he chooses, secure one creditor at the expense of all the rest. He is the sole judge of the propriety of any preference which he may think proper to make. The Legislature of that, and of every other State where a similar evil exists, can however apply the remedy, if they think proper. Why then has it been urged upon us, that it is absolutely necessary Congress should pass this bill, to secure creditors against the frauds and the preferences which exist under the insolvent laws of the States, when the States themselves possess ample powers to attain the same ends?

It has been said, truly, that Congress alone can pass a bankrupt law which will be uniform over the United States. But, I would ask, whether the benefits resulting from the uniformity which the law must possess would not be more nominal than real, whilst, on the other hand, it would be a source of the most serious inconveniences? Is it correct legislation to force upon the citizens of one State a system of internal policy, deeply affecting the rights

of creditor and debtor, which may be ruinous and demoralizing to them, because it may promote the prosperity of another State? All laws should be adapted to the character and to the habits of those on whom they are designed to operate. Upon this principle of uniformity, which must be introduced into any bill that you have the power of passing, you are obliged to adapt your citizens to the law, not the law to your citizens. Will any gentleman say, that the same internal political regulations, respecting creditor and debtor, should exist in each of the States composing this vast Union? For example, would the same laws be suited to the manners and to the habits of the citizens of Louisiana which might be beneficial in the State of Maine? This necessity for uniformity, in legislating upon the subject of bankruptcy, reminds me of the bed of Procrustes. He made every person of every size fit it. If they were too long for its dimensions, he lopped off their limbs; if too short, he stretched them to the proper length.

The uniformity which must exist in any law that we have the power of passing, shows, in a forcible point of view, the propriety of State legislation upon the subject, in preference to that of Congress, it will be better adapted to the peculiar habits of the citizens of the respective States.

It has been urged, as an objection to State legislation, that, as they can pass no law impairing the obligation of contracts, they cannot discharge a bankrupt from his debts. This is certainly true. If, therefore, it be deemed proper that the States should possess that power, it can be bestowed on them by an amendment to the Constitution.

On this part of the subject I am much obliged to my honorable colleague for the clear and forcible distinction which he has drawn between contracts, and the means of enforcing them—between rights and remedies. This distinction is also precisely marked in the opinion of the court in the case of *Sturges and Crowninshield*. The States, it is true, cannot impair the obligation of a contract, but they possess a discretionary power, to a considerable extent, in modifying the remedy of the creditor. I have been informed that no species of execution in Rhode Island will touch the debtor's real estate, yet the law of that State, in this respect, has never been supposed to be unconstitutional. Why then might not the States, if they thought it politic, declare, that, after a debtor had fairly relinquished all his property for the benefit of his creditors, in such a manner as might be directed by law, their process of execution should not be used by a vindictive creditor against the acquisitions of his debtor for a certain number of years, and then only against a part of them, and for the common benefit of all the creditors? If such a provision, or one of a similar nature, be Constitutional—and I confess I can perceive no reason, founded either upon principle or precedent, sufficient to convince me that it would not—the States already possess the power of relieving an honest bankrupt to a considerable extent. This is however, a delicate subject, on which I wish to express no decided opinion. How far a State may proceed constitutionally, in controlling the process of

her own courts, has never yet been determined. The precise point, at which the power of regulating the process would interfere with the prohibition against impairing the obligation of the contract, will be difficult to ascertain.

The advocates of this bill have presented it to us in the garb of a political experiment. Say they, its duration is limited to the term of three years. It must then die, unless its existence shall be prolonged by the joint act of all the legislative departments. Its enemies, therefore, ought not to apprehend serious evils from its enactment.

In answer to this suggestion, it may be observed, that legislative experiments should be tried with extreme caution. An act may expire in three years by its own limitation; you may repeat it at the end of one, should its operation be found injurious, but yet its pernicious influence may last for ages. If, by expunging a law from your statute book, you would efface its effects from the human mind, or withdraw its influence from the human character, then, indeed, experiments in politics would be as harmless as those in philosophy. This, however, is not the case. We all agree that the bill, if it should pass, is what may, with propriety, be called a strong measure. It is not a mere theory. Its effects upon society will be immediate, and either good or evil to a great extent. Whether, therefore, it shall continue but three years, or be perpetual, ought not much to influence the decision of the question.

The experience of other countries, respecting bankrupt laws, has been introduced into this argument by the friends of the bill, for the purpose of furthering their views, whilst, on the other hand, its enemies have contended, that the practical operation of the bankrupt law of England, and of that one which heretofore existed in this country, present powerful reasons against the passage of this bill. Into this controversy I will not enter, because the subject has been already fully discussed. There is, however, one event in the history of Pennsylvania which speaks volumes against the passage of this bill. On the 13th March, 1812, the Legislature of that State, after much solicitation, passed a bankrupt or insolvent law, under the provisions of which debtors were to be relieved from the obligation of their contracts. The operation of this act was confined to the city and county of Philadelphia. It was there that the commerce of the State was chiefly conducted, and it was there the merchants resided who were most liable to be ruined by the fluctuations of trade. If there ever was a place where a fair experiment could have been made of the effects of such a law, Philadelphia was peculiarly that place. What was the consequence? The act would have expired by its own limitation on the 1st of April, 1814, but it was not suffered to exist one month beyond the next meeting of the Legislature after its passage. It was repealed on the 21st December, 1812. I am now informed, by my colleague, (Mr. BROWN,) who was then a member of the Legislature, that the representatives from that district, who, but a few months before, had strained every nerve to procure the passage of the bill,

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were the most active in obtaining its repeal. On the very first day of the session they presented a great number of petitions from their constituents, praying that the law might no longer be suffered to exist. Such were its baneful effects in so short a period of time. Whilst on this part of the subject I will merely add, that this law was repealed long before the Supreme Court of the United States had decided that the States had not the power of introducing into a bankrupt law a clause discharging the bankrupt from his debts. Before this decision was made, the Supreme Courts, both of New York and Pennsylvania, had held a contrary doctrine.

I shall now proceed to lay before the House my objections to the passage of this bill. As it now stands, certain classes of society are exposed to its adverse operation, upon the commission of any of the acts of bankruptcy, described in its first section. Every individual in the community, including those embraced by the bill previous to the late amendment, may become voluntary bankrupts.

It will be necessary here briefly to inquire who may be declared bankrupts against their will. The adverse operation of the law will not be confined to wholesale and retail merchants, strictly speaking, and to dealers in exchange, bankers, brokers, factors, underwriters, and marine insurers. By the construction which has been placed upon the words "other person, actually using the trade of merchandise, by buying and selling, in gross or by retail," not only every dealer in any article, but every manufacturer or mechanic who purchases any material, bestows his skill and labor upon it, and sells it in its improved state, falls within the compulsory branch of this bill, unless expressly excepted by the proviso in its first section. Thus, the distiller who purchases grain, converts it into whiskey, and sells the whiskey, would clearly be within its operation. The miller, also, who buys wheat, and sells it converted into flour, may be declared a bankrupt against his will. These cases are cited only as examples to illustrate the general rule. Each individual member can imagine many others.

I will now proceed to that which strikes my mind as a radical objection to the existence of this or any other adversary bankrupt bill in the United States. It arises from the nature of our free institutions, and is one that exists in no other country on the globe. It springs out of the best principles of the Federal Constitution, and it cannot be removed without expunging them from the instrument.

In what manner is a person to be declared a bankrupt by the bill now before the House? On the petition of any creditor, accompanied by an affidavit of the truth of his debt, the Circuit or District Judge of the United States is authorized to issue a commission of bankruptcy. The alleged bankrupt may, however, appear before the commissioners, deny that he has committed any act of bankruptcy, and demand a trial by a jury of his country, before the Judge who issued the commission. This is a right of which he cannot be deprived by the power of Congress. In the em-

phatic language of the Constitution, "he shall not be deprived of his life, his liberty, or his property, without due process of law."

This trial before the Circuit or District Judge may, and probably will, in a majority of cases, be delayed for years, before its final termination. In free governments we cannot move with the celerity of despotism. During its pendency, what becomes of the property of the alleged bankrupt? He cannot be dispossessed of it under the Constitution of the country, or by the provisions of this bill, until the jury shall have convicted him of some one of the acts of bankruptcy described in its first section. But, although it cannot be wrested from him until after the event, yet the moment the commission issues, he, in effect, loses all control over his estate. The reason of this is, that, by the provisions of the bill, all intermediate dispositions made by the debtor of his property are absolutely void, should he finally be declared a bankrupt. No person, therefore, could, with safety, in the meantime, enter into any contract with him, on purchase any part of his estate. From the very nature of an adverse bankrupt system, this must necessarily be the case. If it were not, every man charged with having committed an act of bankruptcy would demand a trial by jury before the District or Circuit Judge of the United States; so that, during its pendency, he might have an opportunity to dispose of his property as he thought proper. This would be giving a legal sanction to the very evil which the friends of the bill say it is chiefly intended to remedy.

What, then, is the situation in which the bill places every man within its adverse provisions? Any of his creditors, or pretended creditors, by making an *ex parte* affidavit of the truth of his debt, without even proving, by his own oath, or otherwise, any act of bankruptcy against him, may bring upon him inevitable and overwhelming destruction. If envy or malice against him rankles in the soul of any enemy, who either is his creditor, or who will swear that he is, that enemy may wreak his vengeance to the full extent of his wishes, by having a commission of bankruptcy issued against him. The commission itself would be the death warrant of his property, notwithstanding his property may have been sufficient to discharge his debts, and he may have been guilty of no act of bankruptcy. If he submits to the commission, his credit is gone and his power of exertion is at an end, until he shall have obtained his final discharge. If he does not, and demands a trial, he is, during its pendency, in the situation of Tantalus in the infernal regions. Although he may be surrounded by all the comforts of life and the means of extricating himself from his difficulties, he has not the power of using them. If he should be a merchant, his counting-house must be closed and his capital remain idle, awaiting the result of a tedious lawsuit. If he be a farmer, who has carried on a distillery, or who has been a miller, or retail merchant, he cannot dispose of an acre of his land, or any of his personal property, until the controversy is determined. Whether, therefore, he submits to the commission

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or does not, if he be an honest man he is exposed to inevitable ruin. If he be a fraudulent debtor, the delay of the trial will afford him ample time and opportunity to secrete his property, and place it beyond the reach of his creditors; and, in this situation, he will have the strongest temptation to be guilty of fraud.

The bankrupt law of England, the model from which the present bill has been drawn, provides an effectual remedy for this evil. It is one, however, which we have no Constitutional power to adopt, and, if we had, it would be repugnant to every feeling of the hearts of freemen. In that country the bare issuing of the commission is itself equivalent to an execution. The debtor is at once deprived of the possession of all his property, and it is vested in the commissioners. Although he may declare that he has never been guilty of an act of bankruptcy, and petition for a trial, he petitions in vain. The iron hand of the law is upon him, and no innocence can elude its grasp. In that country, the law declares that "caveats against commissions are not allowed, for they give too much time to a fraudulent debtor." The proceedings under it resemble those of the judges in the infernal regions who first condemn and afterwards hear. They first deprive a man of all his property, by virtue of the commission, and, after the evil has been done, allow him to apply to the Chancellor to have it superseded.

From the nature of those Governments on the continent of Europe, under whose dominion bankrupt laws prevail, and from the peculiar character of those laws, and of the commercial tribunals by whom they are administered, the same evils do not exist. I will not exhaust the patience of the House by detailing their different provisions.

It may be said that, as the bill provides that the petitioning creditor, before the commission can issue, shall give bond, to be taken by the circuit or district judge, in such penalty and with such surety as he may direct, conditioned that the obligor shall prove the debtor to be a bankrupt, he will be enabled to recover damages to the extent of any injury which he may sustain, in case the condition of the bond should be violated.

This remedy, from its nature, could be no compensation for the injury sustained. To inform a man, after he had been arrested in the pursuit of his business by a commission of bankruptcy; after his prospects in life had been blasted; after his credit had been destroyed; and after he had been pursued for years in a course of litigation, which had terminated in his favor, that he might then enter upon another law-suit and bring his action upon the bond, would be laughing at his calamity. This would present no prospect of indemnity, even if the obligors should be solvent; but, from the ignorance of the judges, so far removed from the people as those of the United States necessarily are, respecting the solvency of the sureties, and from the lapse of time which must transpire before any suit could be sustained upon the bond, it would in most instances, be of little or no value.

These, then, would be the effects of the bill on the persons within its adverse operation.

Let us next inquire what would be the moral and practical effects of this bill, with the amendment just adopted of the gentleman from Kentucky. Should it pass in its present shape, I shudder at the consequences. How will it affect the great agricultural interest of the country? I have the honor, in part, to represent a district chiefly composed of farmers. They are honest, they are industrious, and they esteem their contracts to be sacred and inviolable. The word of most of them, could their existence be perpetuated, binds them as forcibly as their bond. Have they, or have any other agriculturists over the whole range of this extensive Union, asked you to pass a bankrupt law in their favor? Have they ever petitioned you to discharge them from the obligation of their contracts, which they feel themselves as much bound in conscience as in law to perform? It is certain that many honest and respectable men of that valuable class of society have been unfortunate, and I pity them from my inmost soul; but, I beseech you, spare them from a law for which they have never asked, and which would tempt them to add guilt to misfortune.

What would be the necessary operation of such a law, when brought home to them and to every other member of society? Once declare that contracts shall be no longer sacred; that any debtor, whether he has been a trader or not, by complying with the provisions of the law, may have an election held by his creditors, and if two-thirds of them in number and value consent, may be relieved from all his debts against the will of the remainder; and you make a direct attack on the first principles of moral honesty, by which the great mass of the people have been hitherto directed. Let a bankrupt be presented to the view of society, who has become wealthy since his discharge, and who, after having ruined a number of his creditors, shields himself from the payment of his honest debts by his certificate, and what effects would such a spectacle be calculated to produce? Examples of this nature must at length demoralize any people. The contagion introduced by the laws of the country, would, for that very reason, spread like a pestilence, until honesty, honor, and faith, will at length be swept from the intercourse of society. Leave the agricultural interest pure and uncorrupted, and they will forever form the basis on which the Constitution and liberties of your country may safely repose. Do not, I beseech you, teach them to think lightly of the solemn obligation of contracts. No Government on earth, however corrupt, has ever enacted a bankrupt law for farmers, it would be a perfect monster in this country, where our institutions depend altogether upon the virtue of the people. We have no Constitutional power to pass the amendment proposed by the gentleman from Kentucky; and, if we had, we never should do so, because such a provision would spread a moral taint through society which would corrupt it to its very core.

There is another point of view in which this bill, in its practical effects, would be intolerable. The jurisdiction of federal courts over citizens of the United States is now chiefly confined to con-

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troversies existing between the citizens of different States. This bill, if it should become a law, will amount to almost a judicial consolidation of the Union. The litigation which will arise out of it, and which, by its provisions, must be exclusively determined by the federal courts, will embrace a large portion of the citizens of every State, either as parties or witnesses.

The numerous acts of bankruptcy described in the bill, many of which depend altogether upon the intention of the party charged with having committed them, would form the first ample source of exclusive federal jurisdiction.

By the fifty-sixth section it is provided that any creditor of a bankrupt, appearing before the Commissioners, may, at his election, have the validity of his claim determined in the circuit court of the district in which the bankrupt resides. The same privilege is extended to the assignees objecting to the validity of any claim upon the bankrupt, presented before the Commissioners; in this manner every law suit which could arise in the settlement of a bankrupt's estate, respecting the demands of any of his creditors, would be drawn into the circuit court for decision. This would be the case whether he became a bankrupt voluntarily or by compulsion, and without any regard either to his occupation or place of residence, or that of his creditors. The whole structure of the National Judiciary would thus be changed. It would then possess jurisdiction, not only over controversies arising between citizens of different States, but over an immense number of those existing between citizens of the same State.

It would be tedious to enumerate, and perhaps impossible to foresee, all the controversies which, under the provisions of this bill, must exclusively be determined by the federal courts. The sixty-third section contains a sweeping clause upon this subject. It provides "that, except in the cases 'which are in this act otherwise specially provided for, if any bankrupt, or any assignee or assignees, creditor or creditors, or any other person, shall conceive himself, herself, or themselves, aggrieved by any examination, order, decision, denial, or other proceeding of the Commissioners, under any commission, or any act, proceeding, refusal, neglect, or omission of the bankrupt, or any assignee or assignees, or creditor or creditors, under, or by virtue of this act,' such person may petition the circuit court, for the district where the commission issued, or either of its judges, for relief. The court, or the judge, is then bound to take cognizance of the complaint, and, at the election of either party, direct any facts in controversy to be tried by a jury.

In the State of Pennsylvania there are but two district courts of the United States, the one located in the city of Philadelphia, the other in the city of Pittsburg. The distance between these two places is three hundred miles. The inconvenience and expense to the people, from every section of the State of attending those two courts, as parties, and as witnesses, would be an intolerable grievance. Under the provisions of this bill, however, such attendance must necessarily be a matter

of daily occurrence. The people are already sufficiently harassed, by being obliged to be present at the courts within their own counties; but, if you compel them to travel to the federal courts, from one extremity of a large State to the other, it would be an evil scarcely to be endured. The same inconveniences will exist in every other State in the Union, but they will be felt in a greater degree by the people of the larger States. This is another radical objection against the passage of a bankrupt bill by Congress. It is one which cannot be renewed, because it results from the organization of the federal courts under the Constitution, and the allotment of judicial power between them and the courts of the several States. It demonstrates, however, that the power to pass bankrupt laws could be exercised by the States much more conveniently for the people, than by the General Government.

Another serious objection to the passage of the bill, is its manifest tendency to increase the perpetration of fraud. It is true, it has been strenuously maintained by its friends, that it will, in a great degree, repress that evil. Has the experience of England justified them in making this prediction? Does not the testimony which has been taken before the committee of the House of Commons prove clearly the contrary? Indeed, so pressed down with its weight was my honorable colleague, (Mr. S.,) that he was obliged to attribute the innumerable frauds which had been committed under the bankrupt law of that country, not to the operation of the law itself, but to the general corruption which prevailed among the people. This bill, should it become a law, must be productive of innumerable frauds, unless it will have the power of changing the nature of man, and rendering him the less criminal because he is the more tempted. He who created man, and therefore best knew his heart, directed him to pray that he might not be led into temptation. This bill informs the debtor that, if he will conform to its provisions, he shall obtain a certificate which will discharge him from all his debts. The State insolvent laws declare to him that, when he has given up all his property for the use of his creditors, he has done no more than his duty, and that his future acquisitions shall be answerable until his debts are paid. If a debtor can pass the ordeal of this bankrupt law, and obtain his certificate, he may then in security enjoy that property which successful fraud has enabled him to conceal. Under the State insolvent laws, however, he must know that the moment his concealed property is brought to light, it is liable to be seized by his creditors. Whilst, therefore, a bankrupt law holds out every temptation to make the debtor dishonest, an insolvent law presents him no such inducement. Indeed, his true policy is directly the reverse. Upon his good and fair conduct, and the consequent favorable regard of his creditors, depend his hopes of a discharge.

It is true, that by this bill a bankrupt cannot obtain a discharge from all his debts, unless by the consent of two-thirds of his creditors in number and value. In theory this would appear to present

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a considerable difficulty in the way of obtaining a certificate. In practice, under the English bankrupt laws, it has been found more nominal than real. Indeed, but few instances have, I believe, occurred in the history of their bankrupt laws, in which consent has not been obtained. In this country, under our judiciary system, it would, perhaps, be still easier for the bankrupt to escape from his debts. He himself, if he be fraudulently disposed, can, by his own act, create as many creditors as he chooses. If the assignees or the other creditors think proper to dispute the claims of those believed to be fraudulent, they may insist upon having a trial by jury before the circuit court. Where the bankrupt has little or no property to divide, as would be the case in most instances, neither his assignees nor honest creditors would incur the expense and trouble of carrying on a lawsuit, perhaps a hundred miles from home, to disprove any debt presented before the commissioners. Even should they think proper to do so, it would be difficult to accomplish it, if the fraud had been conducted with any art; because, in the law, fraud is never to be presumed, but must be clearly proved.

The evils which would flow from the retrospective operation of this bill I shall not touch; they have already been ably and eloquently descanted upon by others.

I shall now come to my concluding argument against the passage of this bill. It would tend again to arouse the spirit of wild and extravagant speculation, which has spread distress far and wide over the land. It will tend again to produce those very evils for which its friends say it is intended to provide a remedy.

What has been the history of this country? Upon this subject let us not turn a deaf ear to the dictates of experience. It is the best teacher of political wisdom.

Under our glorious Constitution, the human mind is unrestrained in the pursuit of happiness. The calm of despotism does not rest upon us. Neither the institutions of the country, nor the habits of society, have established any *castes* within the limits of which man shall be confined. The human intellect walks abroad in its majesty. This admirable system of government, which incorporates the rights of man into the Constitution of the country, develops all the latent resources of the intellect, and brings them into active energy. The road to wealth and to honor is not closed against the humblest citizen; and Heaven forbid that it ever should!

It is, however, the destiny of man to learn that evil often treads closely upon the footsteps of good. The very liberty which we enjoy, unless we are restrained by the dictates of morality and of prudence, has a tendency to make us discontented with our condition. It often produces a restless temper, and a disposition to be perpetually changing our pursuits, for the purpose of becoming more wealthy or more distinguished. The frame of mind produced by freedom, if kept within proper bounds, is a source of the greatest advantages to individuals and to society; if unrestrained

and suffered to run wild, it leads to every species of extravagance and folly.

A few merchants, both in the cities and in the country, have amassed splendid and princely fortunes. These have glittered in the fancy of the thoughtless and unsuspecting countryman, and have roused his ambition or his avarice. He never calculated that it requires a union of considerable parts with great experience to make an accomplished merchant; and that, with all these advantages, but few comparatively are successful. His son is taught book-keeping at a country school, and then he abandons the pursuit of his fathers. He leaves the business of agriculture, which is the most peaceful, the most happy, the most independent, and, I might add, the most respectable, in society, to become a merchant. He spurns the idea of treading in the path of his ancestors, and acquiring his living by the sweat of his brow. Wealth and distinction have become his idols, and have turned his brain.

Is not this the history of thousands in our country within the last twenty years? It was not difficult to predict what would be the melancholy catastrophe. Bankruptcy and ruin have fallen upon the thoughtless adventurers.

Happy would it have been for the country had this spirit of speculation confined itself to the farmer who turned merchant. We have witnessed it spreading over every class of the community. We have, in innumerable instances, seen the plain, sober, industrious, and experienced farmer, converted into a speculator in land and in stocks. We have lived in a time when the foundations of society appeared to be shaken, and when the love of gain seemed to swallow up every other passion of the heart. This disposition gave birth to the hundreds and the thousands of banks which have spread themselves over the country. Their reaction upon the people doubled the force of the original cause which produced them. They deluged the country with bank paper. The price of land rose far beyond its real value; it commanded from \$200 to \$400 per acre in many parts of the district which I have the honor, in part, to represent; and I know one instance in which a man agreed to give \$1,500 per acre for a tract of land, which he afterwards laid out in town lots. He sold the lots at so large a profit that he would have accumulated an independent fortune by the speculation, had not the times changed, and the lot-holders, in consequence, been unable to pay the purchase money.

This universal delusion has vanished; the enchantment is at an end; the people have been restored to their sober senses. In the change, which was rapid, many honest and respectable citizens have been ruined. Among many, misery and want have usurped the abodes of happiness and plenty. I most sincerely deplore their situation; but, as legislators, we should also have some compassion on the community. Experience has taught us a lesson which, I trust, we shall never forget—that a wild and extravagant spirit of speculation is one of the greatest curses which can pervade our country. Do you wish again to rouse it? Do

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you wish again to witness the desolation which it has spread over the land, and which we are now slowly repairing? Then pass this bankrupt bill. Inform the farmer, who is now contented and happy, and whom experience has taught the danger of entering into trade, that he may become a merchant or a landjobber; that he may proceed to any excess he thinks proper; that he need confine the extravagance of his speculations within no other limit but the extent of his credit; that if, at last, he should be successful, unbounded wealth will be his portion—if not, the law will discharge him from all his debts, and enable him to begin a new career; hold out a lure to all the industrious classes in society to abandon their useful and honorable pursuits, and enter into speculation of some kind or other, by proclaiming it as the law, that, if they should prove unsuccessful, their debts shall be cancelled, and they shall be restored to their former situation. Such a law would present the strongest temptations to every man in society to become indolent and extravagant, because every man in society is embraced by its provisions. In this respect it is as novel as it is dangerous. Rest assured, Mr. Speaker, that our population require the curb more than the rein. If you hold out such encouragement to unbounded speculation as this bill presents, we shall, before many years, see all the occurrences again presented before us which have involved the country in unexampled distress.

The time may come, ages hence, when a bankrupt law may become necessary for the encouragement of commerce. History has instructed us that nations, like men, rise, and flourish, and decay. At present our population possesses all the vigor and enterprise of youth. The stimulus of such a bill would drive us on to madness. It would be putting into the hands of Phæton the reins of the chariot of the sun. The day will come, but I trust it is now far distant, when old age shall fall upon us as a nation—when wealth shall beget luxury and corruption—and when we shall be enfeebled in all our exertions. Then it may be necessary to hold out extraordinary allurements to commercial enterprise. When that day shall arrive; when our country shall be sinking into decline; when her energies shall be paralyzed; and when, perhaps, a new Republic, vigorous as ours is at present, may be her competitor in commerce, then, and not till then, will it be necessary that Congress should exercise the power vested in them by the Constitution, and pass uniform laws on the subject of bankruptcies.

When Mr. B. had concluded—

Mr. WRIGHT replied.

To put an end to further discussion of the subject, Mr. TAYLOR remarked that he felt it his duty to call for the previous question, and, on motion, it was decided in the affirmative—yeas 96.

At the suggestion of Mr. NELSON, of Virginia, Mr. CAMBRELENG moved for a reconsideration of the vote for the previous question just taken; but the House refused to reconsider the same—yeas 69, nays 83.

The main question was then ordered, and was

put, on reading the bill a third time, and decided in the negative—yeas 72, nays 99, as follows:

YEAS—Messrs. Allen of Massachusetts, Baldwin, Barbour of Connecticut, Bayly, Bigelow, Borland, Breckenridge, Burrows, Cambreleng, Campbell of New York, Causden, Cocke, Colden, Conkling, Crafts, Cushman, Darlington, Denison, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Farrelly, Findlay, Fuller, Gorham, Hawks, Herrick, Hill, Holcombe, Hubbard, Jones of Tennessee, Kent, Kirkland, Little, McCarty, Milnor, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Neale, Nelson of Massachusetts, Patterson of New York, Pitcher, Poinsett, Rich, Rochester, Rogers, Ruggles, Russ, Russell, Sawyer, Sergeant, S. Smith, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stoddard, Taylor, Tod, Tomlinson, Tracy, Van Rensselaer, White, Whitman, Williamson, Wood, Woodson, and Wright.

NAYS—Messrs. Alexander, Allen of Tennessee, Archer, Ball, Barber of Ohio, Bassett, Bateman, Baylies, Blackledge, Blair, Brown, Buchanan, Burton, Butler, Campbell of Ohio, Cannon, Casedy, Chambers, Condict, Conner, Cook, Cuthbert, Dane, Dickinson, Edwards of North Carolina, Floyd, Gilmer, Gist, Gross, Hall, Hardin, Harvey, Hobart, Hooks, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Keyes, Lathrop, Leftwich, Lincoln, Litchfield, Long, Lowndes, McCoy, McDuffie, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Morgan, Murray, Nelson of Virginia, New, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rhea, Ross, Sanders, Scott, Sloan, Arthur Smith, W. Smith, Alexander Smyth, Stevenson, Stewart, Swan, Swearingen, Tatnall, Thompson, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Wyck, Walker, Walworth, Whipple, Williams of North Carolina, Williams of Virginia, Wilson, Woodcock, and Worman.

So the bill was rejected. And then the House adjourned.

WEDNESDAY, March 13.

Mr. SERGEANT, from the Committee on the Judiciary, who were instructed, on the 14th ultimo, to inquire into the expediency of permitting aliens, who resided within the limits and jurisdiction of the United States one year immediately preceding the declaration of the late war between the United States and Great Britain, and who have continued to reside within the same, to become citizens without a compliance with the first condition specified in the first section of the act entitled "An act to establish a uniform rule of naturalization," approved April 14th, 1802, made a report thereon; which was read, and committed to the Committee of the whole House on the state of the Union.

Mr. SERGEANT, from the same committee, also reported a bill to authorize the Secretary of State to issue letters patent to Frederick S. Warburg; which bill was read twice, and committed to a Committee of the whole House to-morrow.

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Mr. GILMER submitted the following resolution, viz:

Resolved, That the Secretary of State be instructed to report to the House of Representatives, what evidences of claims, recorded in the office of the Department of State, in pursuance of the act of Congress, passed 31st March, 1814, providing for the indemnification of certain claims of public lands in the Mississippi Territory, remain in that office, after having been rejected by the commissioners appointed under that act; whether the Secretary of State has refused to deliver up such evidences of claims to the claimants, together with the reasons of such refusal, specifying the names of such claimants as applied to withdraw their evidences of claims.

The resolution was ordered to lie on the table one day.

Mr. EDWARDS, of North Carolina, moved for the consideration of the joint resolution from the Senate, now lying on the table, for fixing a time for the adjournment of Congress, which motion was negatived—the House refusing to consider it.

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On motion of Mr. NELSON, of Virginia, the House went into the consideration of the report of the select committee appointed to revise and alter the standing rules and orders of the House.

The first alteration proposed in the report, was of the 16th rule, so as to substitute Maine for New Hampshire, in the order of calling petitions.

The alteration was supported by Mr. NELSON, of Virginia, Mr. HILL, and Mr. SMITH, of Maryland, and opposed by Mr. MCCOY, Mr. TUCKER, of Virginia, Mr. WOODCOCK, and Mr. MALLARY, when the question was taken and the alteration adopted.

Another alteration was proposed to the 16th rule in relation to the presentation of petitions, forbidding the same, after thirty days from the commencement of the session, except on the first day of the meeting of the House in each week.

Mr. CAMPBELL, of Ohio, moved to erase the word "thirty" and in lieu thereof to insert the word "fifty."

MESSRS. RHEA, and WILLIAMS, of North Carolina, were disposed to non-concur altogether with the proposed amendment. They considered it as an improper curtailment of the right of petitioning. After some further remarks by Messrs. NELSON, of Virginia, MERCER, and FULLER, the question was taken on Mr. CAMPBELL's motion; and lost. On the question of adopting the amendment as reported, it was decided affirmatively.

The following proposition was reported to be added to the 17th rule, viz: "No more than an hour each day, shall be devoted to the subject of reports from committees, and resolutions; after which, the Speaker shall dispose of the bills, messages, and communications, on his table, and then proceed to call the orders of the day."

The proposition was opposed by Mr. BUTLER, who thought the only beneficial curtailment would be, by devising some method of limiting the long speeches that had consumed so much time during this session.

Mr. STERLING, of New York, proposed to amend the amendment, by inserting, after the word "resolutions," the words, "unless in the opinion of the Speaker further time shall be required."

The amendment of Mr. S. was opposed by Mr. MALLARY, and negatived.

Mr. EDWARDS, of Connecticut, then offered the following amendment to the amendment, to be inserted after the word "resolutions," viz: "unless in the opinion of the House further time shall be necessary, which question shall not be subject to debate." This proposition was also negatived, as were others respectively submitted by Messrs. BATEMAN, COOK, and EDWARDS, of North Carolina. The question then recurring upon the adoption of the amendment as recommended by the committee, the same was supported by Messrs. SMITH, of Maryland, TOMLINSON, COOK, and RICH, and opposed by Messrs. RHEA, PLUMER, of New Hampshire, and WALKER; when the question was taken and the amendment was adopted.

After passing various other amendments proposed to the present rules—

The first amendment proposed to the 52d rule being under consideration—

Mr. CANNON moved to amend the same, by adding ~~there~~ words to constitute the Committee on the Militia a standing committee. The motion was supported by the mover and opposed by Messrs. TAYLOR, SMITH, of Maryland, and MCCOY, and negatived.

The clause as reported to be added to the 52d rule being under consideration—

Mr. EUSTIS proposed to strike out the following part thereof, next after the word "report," viz: "from time to time, such measures as may contribute to the economy and accountability of the said establishment," and to insert, in lieu thereof, the words "their opinion thereupon." The motion to strike out was supported by the mover, and Messrs. MERCER, FULLER, and MCCOY, and opposed by Messrs. TAYLOR, SMITH of Maryland, TOMLINSON, WILLIAMS of North Carolina, and NELSON of Virginia; when the question was taken and the motion negatived.

Mr. TOMLINSON moved so to amend the proposition as to provide that the said committee report their opinion upon the measures submitted to them, and also to report from time to time such measures as may contribute to economy and accountability in the said establishment.

The question was then taken upon the motion of Mr. T. and carried, and the question next recurring upon the amendment as amended, the same was adopted.

Mr. TAYLOR proposed a similar modification to the last of Mr. TOMLINSON, in respect to that part of the amendment which relates to the Committee on Naval Affairs; the same was agreed to, and the amendment as amended was then adopted.

The remaining branch of the amendment, in relation to the Committee on Foreign Affairs, after some verbal emendations, was concurred in.

A new rule, to be inserted after the 56th rule, providing that the Clerk of the House of Representatives, at the commencement of every session

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of Congress, shall cause to be printed and delivered to each member a list of reports, &c., which it is the duty of any officer or Department of Government to make to Congress, was also concurred in.

A new rule, as reported for the 82d rule, after sustaining a modification, on motion of Mr. RICH, was also adopted.

The last proposition reported by the committee was in the following words: "Nor shall any rule be suspended except by a vote of at least two-thirds of the members present."

The concurrence with this amendment was opposed by Mr. WILLIAMS of North Carolina, and Mr. MERCER, and supported by Mr. NELSON of Virginia; when the question was taken thereon, and the amendment was concurred in.

Mr. MERCER moved to insert, as an addition to the 22d rule, the following: "Nor shall any member remain in the hall covered, during the session of the House, without the permission of the Speaker."

The question was discussed by Messrs. MERCER and HARDIN in favor of the motion, and by Messrs. WILLIAMS of North Carolina, LITTLE, WALKER, and TRIMBLE, in opposition to it; when Mr. TAYLOR submitted it as a question of order, that this proposition was not susceptible of debate or determination, without being laid one day on the table.

Mr. MERCER considered it to be in order as an amendment to rules that were now under discussion.

The SPEAKER decided that the motion was in order; and, after a few further remarks by Mr. MERCER in favor of the motion, and by Mr. SAWYER against it, the question was taken, and decided in the negative—ayes 63, noes 77.

Mr. MERCER then submitted an amendment of the 18th rule, so as to prefix thereto the following words: "No member shall read a newspaper, write or read a private letter, in his seat, during the session of the House."

This motion was opposed by Messrs. WRIGHT and RHEA, and negatived without a division.

Mr. WRIGHT moved, as a new rule, the following: "That no person shall be permitted to smoke a cigar in the hall nor in the outer lobby of the hall." This motion was also negatived without a division.

Mr. NELSON, of Virginia, moved to reconsider the 82d rule, for the purpose of introducing a proposition, that a motion to adjourn should not be in order before the hour of 4 o'clock, if any question should then be before the House.

The House agreed to reconsider, and adopted the amendment as proposed.

Mr. COCKE moved to amend the 21st rule, so as to provide that no member should be allowed to speak more than an hour at one time, without special leave of the House.

Mr. ROSS moved to amend the amendment by inserting after the word "speak" the words "or read a speech," so as to read—no member shall be allowed to speak or read a speech, more than an hour at one time, without special leave of the House.

Mr. F. JONES, of Tennessee, opposed both the amendment and the amendment to the amendment.

The question being taken upon the latter, it was decided in the negative; when, the question recurring upon the original proposition, the same was also negatived.

Mr. MERCER submitted an amendment to the 2d rule, the purport of which was, that, after a subject had been under discussion for three hours on each day of three successive days, in the House or in Committee of the Whole, a motion to adjourn, or rise and report, (unless the question shall have been decided,) should not be in order before 7 o'clock, P. M.

The question was supported by the mover, and opposed by Mr. RHEA, who concluded his remarks by moving to amend the amendment by striking out the words "7 o'clock, P. M." and by inserting in lieu thereof the words "the question is taken."

The motion was negatived, and the question recurring upon the original amendment—

Mr. MERCER called for the yeas and nays, which were accordingly ordered. Some further remarks were made by Messrs. BUCHANAN and LOWNDES in favor of the amendment, and by Messrs. WRIGHT, ARCHER, F. JOHNSON, MONTGOMERY, HARDIN, SMYTH, RHEA, and FARRELLY, in opposition to it, when Mr. WILLIAMS, of North Carolina, moved that the whole subject be laid on the table.

Mr. TAYLOR contended that it was not practicable to lay on the table the original report of the select committee, which had been fully acted upon.

The CHAIR decided that the motion was in order.

Mr. WRIGHT appealed from the decision of the Chair.

Mr. WILLIAMS, of North Carolina, supported, and Mr. TAYLOR opposed the decision, when Mr. WRIGHT withdrew the appeal.

Mr. WILLIAMS, of North Carolina, having understood from the SPEAKER that the motion to lay on the table would apply only to the last proposition, withdrew the same.

Mr. CAMPBELL, of Ohio, proposed to renew the motion, when the SPEAKER decided that the whole subject, as last proposed by Mr. MERCER, was not in order before the House.

Mr. NELSON, of Virginia, then moved that the proviso to the 16th, and the amendment to the 17th rules, should not take effect until the next session of Congress; but, before any decision thereon, at 5 o'clock, the House adjourned.

THURSDAY, March 14.

On motion of Mr. JONES, of Tennessee, the Committee on the Public Lands were instructed to inquire into the expediency of vesting in Alvira Debel, formerly Alvira Mitchell, and Sophia Hancock, formerly Sophia Mitchell, daughter of Samuel Mitchell, by Molly, a Choctaw woman, the title to five thousand one hundred and twenty acres of land, reserved to them by the Treaty of Mount Dexter, concluded between the United States of America and the Choctaw nation of Indians, on the 16th day of November, 1805.

On motion of Mr. MITCHELL, of South Caro-

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lina, the Committee on Commerce were instructed to inquire into the expediency of establishing beacons or buoys on the bar of the port of Georgetown, South Carolina, and ascertain the compensation for keeping the same in repair.

Mr. STEWART submitted the following resolution, viz:

Resolved, That the Postmaster General be instructed to communicate to this House any information he may possess relative to the failures and delays of the United States mail between Washington city and Wheeling, the causes which have produced them, and the means of preventing them in future.

The resolution was ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a list of officers of the Army of the United States who hold brevet commissions for gallant conduct in battle, and for other causes, communicated in pursuance of a resolution of this House; which letter and list were ordered to lie on the table.

Mr. RANKIN, from the Committee on the Public Lands, to whom was referred a bill from the Senate, for granting to the Governor of Louisiana two tracts of land in the county of Point Coupee, in the State of Louisiana, reported the same with an amendment to strike out the first section of the bill, (which grants the site of the old fort for the use of a college,) and, on motion of Mr. R., the report was ordered to lie on the table.

The resolution submitted yesterday by Mr. GILMER, calling for information from the Department of State, relative to the titles of certain lands in the Mississippi Territory, which remain in that Department, was taken up and agreed to.

Mr. WALWORTH called for the consideration of a joint resolution, submitted by him some days since, proposing an amendment of the Constitution of the United States, so as to restore to the respective States the power of enacting bankrupt laws, until such time as the Congress shall establish a uniform system of bankruptcy.

The question of consideration was carried—ayes 64, noes 41.

The resolution was then read twice, and committed to a Committee of the whole House on the state of the Union.

Mr. WHITMAN gave notice that he should, on Monday next, move that the House go into a Committee of the Whole on the state of the Union, upon the resolution from the Senate, proposing an amendment to the Constitution in relation to the choice of President and Vice President of the United States, and Representatives to Congress.

The unfinished business of yesterday, in relation to the rules and orders of the House, was then taken up, and the question recurred upon the motion of Mr. NELSON, of Virginia, yesterday, proposing to postpone the operation of the rule in respect to the receipt of petitions, and also the rule for restricting the time of hearing reports, &c., until the next session of Congress—and, after some further debate, the proposition on both points was negatived.

On motion of Mr. NELSON, of Virginia, it was

ordered that the rules and regulations of the House, as amended, be printed.

The House then went into a Committee of the Whole on sundry private bills.

A bill for the relief of Benjamin Freeland and John M. Jenkins, being under consideration—

Mr. RANKIN moved to strike out the first and only enacting clause of the bill.

Mr. TAYLOR suggested it to the member from Mississippi, (Mr. RANKIN,) as a matter of form, that it would be more parliamentary to move to strike out those words in the bill which imply legislation, than the first and only enacting clause.

Mr. R. modified his motion accordingly.

The motion to strike out was supported by the mover, and by Messrs. STERLING, of New York, MCCOY, and CANNON, and opposed by Messrs. COOK and BUTLER, when the question was taken thereon, and the motion to strike out prevailed.

A bill for the relief of James McFarland was then taken up.

After a few explanatory remarks, Mr. RANKIN moved to strike out the first enacting clause of this bill also; and supported the motion by a number of observations.

The motion was opposed by Mr. COOK and Mr. STERLING, of New York, to whom Mr. RANKIN replied; and, the question being taken, was decided in the affirmative.

Mr. RANKIN then moved that the Committee rise and report their decisions on these bills, which was put and lost, when a bill for the relief of Jonathan N. Baily was taken up, and a few explanatory remarks were made by Mr. SMITH, of Maryland, in favor of the bill, and, after a few suggestions by Messrs. LOWNDES, MCCOY, WILLIAMS, of North Carolina, and WALWORTH, the Committee rose and reported the bill without amendment.

In the House, Mr. COOK moved that the report of the Committee of the Whole to strike out the enacting words of the bill for the relief of Benjamin Freeland and John M. Jenkins be laid on the table; which was agreed to.

On the question of concurrence with the Committee of the Whole, in striking out the first clause of the bill for the relief of James McFarland,

Mr. COOK opposed the concurrence, and Mr. RANKIN and Mr. COCKE advocated it.

The House refused to concur with the Committee of the Whole—yeas 49, noes 53.

Mr. RANKIN then moved to recommit the bill to the Committee on Public Lands, which was agreed to. The report of the Committee of the Whole on the bill for the relief of Jonathan N. Baily was concurred in, and ordered to be engrossed for a third reading.

EXCHANGE OF STOCKS.

On motion of Mr. SMITH, of Maryland, the House then resolved itself into a Committee of the Whole, on "a bill to authorize the Secretary of the Treasury to exchange certain stocks."

The general object of the bill was to pay off the United States' stocks, bearing six and seven per cent. interest at five per cent. redeemable at a future period.

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Mr. BALDWIN moved to amend the bill by inserting after the word "thirteen" in the 7th line, the words, "and also two millions of the six per cent. stocks of 1820."

Mr. LOWNDES suggested that it was probable, from the tenor of the report of the Secretary of the Treasury, that the two millions contemplated by the amendment would be redeemed within no long time, and it would therefore be inexpedient to continue for many years to pay interest for the sum when it was in our power to redeem the principal; and that the effect of the amendment would naturally be to injure the public credit by carrying with it the impression that the Government was not able to redeem that portion of the debt as soon as expected.

Mr. TUCKER, of Virginia, proposed to modify the amendment in such a manner as to leave it discretionary with the Executive to include the six per cent. of 1820, or not, as he may deem expedient.

This course was advocated by Mr. CAMBRELENG, but the modification was not then acceded to by the mover, and an extensive range of debate ensued upon the original amendment, which was supported by the mover and Messrs. TRIMBLE, MALLARY, BUCHANAN, ROSS, and FARRELLY, and opposed by Messrs. SMITH, of Maryland, COLDEN, LOWNDES, WOOD, GORHAM, and NELSON, of Virginia.

Mr. BALDWIN finally expressed his willingness to leave it to the Executive to include the stock of 1820 or not, conformably to Mr. TUCKER's proposition; but before the question was determined, the Committee rose, reported progress, and the House adjourned.

FRIDAY, March 15.

Mr. NEWTON, from the Committee on Commerce, to which was referred the bill from the Senate entitled "An act concerning the commerce and navigation of Florida," reported the same without amendment, and it was committed to the Committee of the whole on the state of the Union.

Mr. NEWTON, of Virginia, from the Committee on that part of the President's Message which relates to our commercial intercourse with foreign nations, and the various petitions on the subject of commercial restrictions, (so called,) made a report, which, on motion of Mr. N., was committed, and, on motion of Mr. CUSHMAN, two thousand extra copies were ordered to be printed.

This report concludes with the following resolutions:

Resolved, That the act concerning navigation, passed the 18th of April, 1818, and the act supplementary to the act concerning navigation, passed the 15th of May, 1820; and, also, the act laying a tonnage duty on French vessels, passed the 15th of May, 1820, made necessary to countervail the restrictive systems of Great Britain and France, and for the protection of the navigation and commerce of the United States from injuries, are still, and, as long as those adversary systems shall continue, must be necessary to protect

from injuries the same great interests, and ought not to be repealed.

Resolved, That the Government of the United States, having uniformly declared and avowed its attachment to the principles of free commerce, and having, in the treaties which it has formed and agreed to, with foreign nations, and in its relative acts, adhered to them, should be the last to abandon them, and especially at a time when every just and enlightened nation is conforming its commercial policy to an accordance with those principles.

Mr. SLOAN, from the Committee of Elections, made a report on the certificates of the election of the members of the House; which was laid on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill to make perpetual an act passed the 3d day of March, 1817, entitled "An act to continue in force an act, entitled 'An act further to provide for the collection of duties on imports and tonnage, passed the 3d day of March, 1815, and for other purposes,'" which was read twice and committed to a Committee of the Whole.

Mr. RANKIN, from the Committee on the Public Lands, to whom the subject was referred on the 15th of December last, reported a bill providing for the examination of the titles to land in that part of the State of Louisiana, situated between the Rio Hondo and the Sabine river; which was read twice and committed to a Committee of the Whole.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of Cornelius Huson, accompanied by a bill for the relief of Cornelius Huson; which bill was read twice and committed to the Committee of the Whole.

Mr. PLUMER, of New Hampshire, from the Committee on the Judiciary, reported a bill for the relief of James Green; which was read twice and committed to a Committee of the Whole.

The House then took into consideration the resolution submitted yesterday by Mr. STEWART, relative to the irregularity of the Western mail, and adopted the same.

On motion of Mr. SLOAN,

Resolved, That Philip Reed, who contests the election of Jeremiah Causden, returned a member of this House, be permitted to appear within the bar, and be heard in support of his petition during the discussion of the report of the Committee of Elections on said petition.

Mr. MERCER submitted the following resolution, to wit:

Resolved, That the following be added to the standing rules of the House:

After any bill or resolution shall have been debated for more than three hours in each of three successive days, either in Committee of the Whole, or in the House, unless such bill or resolution shall have been finally disposed of, no motion for the committee to rise, or the House to adjourn, shall be in order before o'clock.

The resolution was ordered to lie on the table one day.

On motion of Mr. WALWORTH, the Committee

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on Military Affairs were instructed to inquire into the expediency of authorizing the President of the United States to deliver to Martin S. Aiken, Azariah C. Flagg, Ira A. Wood, and others, certain rifles promised them by Major General Macomb, for their gallantry and patriotic services during the siege of Plattsburg, in September, 1814.

The House proceeded to consider the bill from the Senate, entitled "An act granting to the Governor of the State of Louisiana for the time being, and his successors in office, two tracts of land in the county of Point Coupee;" whereupon, it was ordered, that the said bill be committed to the Committee of the Whole, to which is committed the bill authorizing the State of Illinois to open a canal through the public lands in said State.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in obedience to the resolution of this House of the 25th of January last, directing him to report the number of land offices in the different States and Territories, designating the number and location in each State and Territory, the annual expense of supporting the same, the amount of money received at each during the years 1820 and 1821, and the distance of the respective offices from each other; and whether, in his opinion, the public good requires the increase or diminution of said offices, or any alteration in the location of the same; and if any increase is required, in what State or Territory the same ought to be located; which report was read and referred to the Committee on the Public Lands.

An engrossed bill, entitled "An act for the relief of Jonathan N. Bailey," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act for the relief of James H. Clarke;" "An act to amend the act, entitled 'An act to incorporate the subscribers to the Bank of the United States';" "An act supplemental to an act, entitled 'An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile';" "An act to define admiralty and maritime jurisdiction;" and "An act to amend the laws now in force as to the issuing of original writs and final process in the circuit courts of the United States within the State of Tennessee;" in which bills they request the concurrence of this House.

ALTERATION OF THE HALL.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, who were instructed by resolution, "to inquire whether such an alteration can be effected in the Hall now occupied by the House of Representatives, as will fit it for the purpose of a deliberative assembly; and if this be deemed impracticable, whether a suitable apartment can be provided in the centre building of the Capitol for the accommodation of the House of Representatives," made the following report thereon, in part:

"The committee, having examined the Hall when empty, and observed, with as much accuracy as was prac-

ticable, the expansion and reverberation of sound within it, entertain the opinion, that the altitude and peculiar structure of the dome, are the principal causes which render sounds within the House indistinct and inaudible. It would seem desirable that this opinion should be tested by actual experiment, so as to ascertain its foundation in fact. An experiment which, it is believed, may be made with very little expense, has been proposed by the Architect, which the committee submit for the consideration of the House. The experiment is to be made by throwing canvass or other cloth across the base of the dome, at the springing of the arch, so as to exclude the dome. From a computation by the Architect, it is believed the expense of this experiment will not exceed one hundred and fifty dollars. The trial may be made so as to be tested by the House without much loss of time, as the materials for making the experiment are at hand, and the Architect will be ready to execute the work promptly. Should the House concur in the views of the committee, they would recommend the adoption of the following resolution:

Resolved, That the Architect of the Public Buildings cause to be made the experiment recommended in the accompanying report."

The report being read, the question was taken on agreeing to the resolution therein recommended, and passed in the affirmative.

CONTESTED ELECTION.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Elections, on the memorial of Philip Reed, contesting the election of Jeremiah Causden, returned as one of the representatives of the present Congress from the State of Maryland.

[This report, after an examination of the statements of the two parties, and the evidence by which they were sustained, comes to the following conclusion:

"From a full, attentive, and deliberate examination of the case, in all its points and bearings, the committee are impelled to the conclusion that the sitting member cannot, consistent with the Constitution of the United States, be allowed to retain a seat in this House, under the proceedings of the Governor and Council of Maryland. That the testimony in relation to the two votes rejected in district No. 1, of Kent county, proves that these tickets were not fraudulent, and that they ought to have been counted at the poll of the memorialist, for whom they were given; and that the vote allowed to him in district No. 2, in Cecil county, ought to be deducted from his poll as being clearly an illegal vote. Therefore, by adding to the poll of Philip Reed, the memorialist, two votes improperly rejected in Kent county, and deducting one therefrom, for that improperly allowed in Cecil county, he will have a majority of one vote over the sitting member."

The following resolutions were submitted:

Resolved, That Jeremiah Causden is not entitled to a seat in this House."

Resolved, That Philip Reed is entitled to a seat in this House."

But the most important part of the reasoning on which this report is founded, is the following:

"The committee, being of opinion that the power thus virtually exercised by the Governor and Council of Maryland, in appointing a Representative to the Congress of the United States, (by casting lots where each of the candidates had an equal number of votes,)

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is contrary to the express provisions of the Constitution, and one which this House cannot sanction, have no hesitation in rejecting the official statement of the proceedings in the case as evidence of the right of the sitting member to a seat in this House."]

The report having been read, Mr. CAUSDEN rose, in opposition to the report of the Committee, and in support of his own title to his seat, and delivered an argumentative speech of considerable length; after he concluded,

Mr. REED addressed the House until about a quarter of an hour before four o'clock, when

Mr. SLOAN moved that the Committee rise and report progress, which was agreed to; and then the House adjourned to Monday.

MONDAY, March 18.

Mr. BATEMAN, from the Committee on the Post Office and Post Roads, who were instructed by resolution, on the 11th ultimo, to inquire into the practicability of facilitating the means of discovering thefts, destruction of, or opening or mutilating letters, committed by deputy postmasters, their agents; and mail contractors; and, also, into the propriety of enacting severer and other penalties against those who may be convicted of such offences, made a report, in part, thereon; which was read, and ordered to lie on the table.

Mr. STERLING, of New York, from the Committee on the Public Lands, reported a bill making provision for the survey and disposal of the public lands in the Territory of Florida; which was read twice, and committed to a Committee of the Whole.

Mr. WALWORTH, from the Committee on Military Affairs, made a report on the petition of Stephen Howard, Jr., accompanied by a bill for his relief; which bill was read, and committed to a Committee of the Whole.

Mr. MERCER called for the consideration of a resolution laid by him on the table on Friday last, proposing to alter the standing rules of the House, with a view to limiting the length of debates in the House. On the question being taken thereon, the House refused to consider the same—ayes 47, noes 55.

Mr. CANNON called for the consideration of a resolution submitted by him some days since, fixing a time for the adjournment of Congress, but the House refused to consider the same—ayes 49, noes 73.

Mr. TUCKER moved for a reconsideration of the vote just taken, but the House refused to reconsider the same, without a division.

Bills from the Senate of the following titles, to wit: An act for the relief of James H. Clark; an act to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" an act to define admiralty and maritime jurisdiction; an act to amend the laws now in force, as to the issuing of original writs and final process in the circuit courts of the United States within the State of Tennessee; and an act supplemental to an act, entitled "An act authorizing the disposal of certain lots of public ground

in the city of New Orleans and town of Mobile;" were severally read twice and referred; the first, to the Committee on Naval Affairs, the second, third, and fourth, to the Committee on the Judiciary, and the fifth, to the Committee on the Public Lands.

MILITARY ESTABLISHMENT.

Mr. COCKE moved that the House do come to the following resolutions, viz:

1. *Resolved*, That the act of the 2d of March, 1821, to reduce and fix the Military Peace Establishment of the United States, was not intended to authorize the President of the United States to dismiss officers then in service, and introduce others of the same grade into the Army.

2. *Resolved*, That the dismissal of Brevet Brigadier General Daniel Bissell, Colonel of the 1st regiment of infantry, and of Joseph L. Smith, Colonel of the 3d regiment of infantry, as supernumerary, and the creation of three new Colonels, to wit: Towson, Fenwick, and Butler, on the 1st day of June, 1821, was not authorized by the terms or by the spirit of the act of the 2d of March, 1821.

3. *Resolved*, That the appointment of Colonel James Gadsden to the office of Adjutant General of the United States Army, and the dismissal of Colonels Butler and Jones from that office, was not justified by the act of the 2d of March, 1821.

4. *Resolved*, That the transfer of Lieutenant Colonel Lindsay from the seventh regiment of infantry to the third regiment of artillery, after the 1st of June, 1821, was contrary to the regulations for the government of the Army of the United States, and not authorized by the terms or spirit of the act of the 2d of March, 1821.

5. *Resolved*, That it is the duty of Congress, upon national principles and considerations, to protect each officer and soldier of the Army in the enjoyment of his legal and Constitutional rights.

Mr. COCKE thought that the subject embraced by the resolutions was one which involved the interest of the country, and he therefore moved that they be laid on the table and printed.

Mr. WRIGHT said the House had business enough before it to occupy its time without interfering with the appropriate business of the other branch of the Legislature, which he thought the resolution was calculated to do. He wished each planet in our system to keep within its proper sphere and move in its assigned orbit, and he did not feel willing to become an organ of censure to another body.

The SPEAKER remarked that the motion to lay on the table was not debateable, and was about to put the question, when

Mr. COCKE expressed an opinion that he had a right to lay a resolution on the table, and that such was the course he had originally proposed.

Mr. WALWORTH observed that the subject embraced by the resolution was now before the Military Committee, and he believed a member of it was at that moment employed in drawing a report upon it.

The SPEAKER observed that he thought it was proper on this occasion to put the question of consideration, and he was about to put the question,

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whether the House would now consider the resolutions; when

Mr. COCKE inquired by what rule he was deprived of the right to lay a resolution on the table?

The SPEAKER referred to the rule of the House, that, "when any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker"—and the question of consideration was then put, and carried—ayes 62, noes 55.

Mr. COCKE then renewed his original motion that the resolution be laid on the table and printed; which was carried without a division.

CONTESTED ELECTION.

The House then went into a Committee of the Whole on the unfinished business of Friday last—the contested election of Mr. REED, and Mr. CAUSDEN.

Mr. REED resumed his remarks in support of his memorial and his claim to a seat in the House, and occupied the floor about an hour; when

Mr. CAUSDEN made a reply at considerable length.

Mr. SLOAN, (chairman of the Committee of Elections, who reported the bill,) explained the views of the committee in arriving at the conclusion they had expressed to the House.

The question was further debated by Mr. EDWARDS, of North Carolina, Mr. WRIGHT, and Mr. WALWORTH, in support of the resolutions presented by the committee, and virtually in favor of the claim of General Reed, and by Mr. MOORE, of Virginia, in opposition to them; when, at 4 o'clock, the question was taken upon the 1st resolution "that Jeremiah Causden is not entitled to a seat in the House," and decided in affirmance of the same—ayes 92.

Mr. F. JOHNSON, of Kentucky, inquired, whether this decision would involve a determination of the 2d resolution, or whether it would not again send the election back to the people? Before a distinct reply was made to the question—

Mr. TAYLOR moved to amend the 2d resolution as reported by the committee, (in relation to the right of General Reed to a seat) by inserting the word "not" between the word "is" and the word "entitled," thereby negating the title of either to a seat.

The question was taken thereon, and carried—ayes 72, noes 63.

On motion of Mr. TAYLOR, the Committee then rose, and reported the resolution as amended.

In the House, the question was upon a concurrence with the report of the Committee of the Whole; when

Mr. WRIGHT, in a speech of some length, contended that it was not competent for the House to send the election back to the people, without a simultaneous declaration, that they found the votes to be equal in favor of the respective candidates. Further remarks were made on the subject by Messrs. ARCHER, NEALE, MALLARY, F. JOHNSON, WALKER, BUCHANAN, F. JONES, and CANNON;

when the question was taken upon concurrence with the Committee of the Whole in their amendment of the second resolution, denying the right of General Reed to the seat he claims; and the votes were, yeas 73, noes 71, as follows:

YEAS—Messrs. Baldwin, Ball, Barber of Ohio, Bassett, Bateman, Baylies, Bigelow, Borland, Brown, Burrows, Butler, Campbell of New York, Cannon, Cocke, Colden, Conkling, Conner, Cuthbert, Darlington, Denison, Dickinson, Durfee, Dwight, Edwards of Connecticut, Farrelly, Findlay, Fuller, Garnett, Gebhard, Gist, Harvey, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Lathrop, Leftwich, Little, Lowndes, McCarty, McCoy, Mallary, Matlack, Matson, Mercer, Mitchell of South Carolina, Moore of Virginia, Phillips, Plumer of New Hampshire, Rankin, Rhea, Rochester, Ruggles, Russ, Sawyer, Arthur Smith, Spencer, Sterling of New York, Stevenson, Taylor, Tod, Tomlinson, Tracy, Tucker of South Carolina, Tucker of Virginia, Upham, Whipple, Williams of Virginia, Wilson, Woodcock, and Wright.

NAYS—Messrs. Allen of Massachusetts, Allen of Tennessee, Archer, Barber of Connecticut, Bayly, Blackledge, Blair, Buchanan, Burton, Campbell of Ohio, Cassedy, Chambers, Condict, Crafts, Cushman, Dane, Eddy, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Gross, Hardin, Herrick, Hill, Hobart, Hooks, Jones of Virginia, Jones of Tennessee, Keyes, Lincoln, Litchfield, Long, McSherry, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Neale, Nelson of Massachusetts, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rich, Rogers, Ross, Russell, Sloan, S. Smith, W. Smith, J. S. Smith, Sterling of Connecticut, Stewart, Stoddard, Swan, Swearingen, Thompson, Vance, Van Wyck, Walker, Walworth, White, Whitman, Williams of North Carolina, Williamson, Wood, Woodson, and Worman.

Mr. TAYLOR observed, that the vote being so nearly equal, and so many members absent, he thought it but justice that the ultimate question should be taken in a more full House—and, on his motion, at half past 5 o'clock, the House adjourned.

TUESDAY, March 19.

Mr. NEWTON, from the Committee on Commerce, to which was referred the memorial of the North River Steamboat Company, and the Fulton Steamboat Company, reported a bill granting certain privileges to steamships and vessels, owned by incorporated companies; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made an unfavorable report on the memorial of Sarah Easton and Dorothy Storer, representatives of Colonel Robert Hanson Harrison, deceased, secretary and aid-de-camp to General Washington, in the Revolutionary war; which was read and ordered to lie on the table.

Mr. RANKIN, from the Committee on Public Lands, reported a bill providing for recording and examining titles and claims to land in the Terri-

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tory of Florida; which was read twice, and committed to the Committee of the whole House, to which is committed the bill requiring Surveyors General to give bond and security for the faithful application of public moneys.

Mr. RANKIN, from the same committee, to which was referred the bill from the Senate, entitled "An act supplementary to the several acts, for adjusting the claims to lands and establishing land offices in the districts east of the island of New Orleans," reported the same without amendment, and it was committed to the Committee of the Whole.

Mr. SMITH, of Maryland, submitted to the House a copy of an act of the General Assembly of the State of Maryland, entitled "An act relative to the road made by the United States, from Cumberland on the Potomac river, to or near Wheeling, on the Ohio river;" which was referred to the Committee of the whole House to which is committed the bill for the preservation and repair of the Cumberland road.

On motion of Mr. HALL, the Committee on the Judiciary were instructed to inquire into the propriety of repealing the act of 1813, to encourage vaccination, and if, on inquiry, it shall seem proper, that they report a bill to that effect.

Mr. STERLING, of New York, submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to communicate to this House the items of the incidental expenses incurred in the Land Offices of St. Louis, Franklin, Huntsville, and Cahaba, for the year 1820, and the three first quarters of the year 1821.

The resolution was ordered to lie on the table one day.

A Message received yesterday from the PRESIDENT OF THE UNITED STATES, was read, and is as follows:

To the House of Representatives of the United States:

I lay before the House of Representatives the copy of a supplementary report made by William Lambert, in relation to the longitude of the Capitol from Greenwich, in pursuance of a joint resolution of the two Houses of Congress of the 3d of March, 1821, and I subjoin an extract from the letter of Mr. Lambert submitting that report.

JAMES MONROE.

WASHINGTON, March 12, 1822.

The Message and documents were ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement exhibiting the amount of drawback payable on merchandise exported from the United States during the year ending on the 31st day of December, 1818, 1819, and 1820, compared with the amount of duties which accrued on the same, respectively; which letter and statement were ordered to lie on the table.

Mr. TUCKER, of South Carolina, called for the consideration of the joint resolution from the Senate fixing a time for the adjournment of Congress; but the House refused to consider the same—ayes 47, noes 67.

Mr. MERCER called for the consideration of a resolution laid on the table by him, on Friday last, proposing an alteration of the standing rules of the House intended to limit the extent of debate; but the House refused to consider the same by a large majority.

SOUTH AMERICAN INDEPENDENCE.

Mr. RUSSELL, from the Committee on Foreign Relations, to which was referred the Message from the President of the United States, concerning the recognition of the independence of the late Spanish provinces in America, made report thereon; which was read and committed to the Committee of the whole House on the state of the Union; and five thousand copies thereof ordered to be printed for the use of the members of this House, in addition to the usual number.—The report is as follows:

The Committee on Foreign Affairs, to which were referred the Message of the President, concerning the recognition of the late Spanish provinces in America, and the documents therewith communicated, having examined the same with the most profound attention, unanimously report:

That the provinces of Buenos Ayres, after having, from the year 1810, proceeded in their revolutionary movements without any obstacle from the Government of Spain, formally declared their independence of that Government, in 1816. After various intestine commotions, and external collisions, those provinces now enjoy domestic tranquillity, and good understanding with all their neighbors; and actually exercise, without opposition from within, or the fear of annoyance from without, all the attributes of sovereignty.

The provinces of Venezuela and New Granada, after having, separately, declared their independence, sustained, for a period of more than ten years, a desolating war against the armies of Spain, and having severally, attained, by their triumph over those armies, the object for which they contended, united themselves, on the 19th of December, 1819, in one nation, under the title of "the Republic of Colombia."

The Republic of Colombia has now a well organized Government, instituted by the free will of its citizens, and exercises all the functions of sovereignty, fearless alike of internal and foreign enemies. The small remnant of the numerous armies commissioned to preserve the supremacy of the parent State, is now blockaded, in two fortresses, where it is innocuous, and where, deprived as it is, of hope of succor, it must soon surrender at discretion; when this event shall have occurred, there will not remain a vestige of foreign power in all that immense Republic, containing between three and four millions of inhabitants.

The province of Chili, since it declared its independence, in the year 1818, has been in the constant and unmolested enjoyment of the sovereignty which it then assumed.

The province of Peru, situated like Chili, beyond the Andes, and bordering on the Pacific ocean, was, for a long time deterred from making any effectual effort for independence, by the presence of an imposing military force, which Spain had kept up in that country. It was not, therefore, until the 12th of June of the last year, that its capital, the city of Lima, capitulated to an army, chiefly composed of troops from Buenos Ayres and Chili, under the command of General San Martin. The greatest part of the royal troops

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which escaped on that occasion, retreated to the mountains, but soon left them to return to the coast, there to join the royal garrison in the fortress of Callao. The surrender of that fortress, soon after, to the Americans, may be regarded as the termination of the war in that quarter.

When the people of Peru found themselves, by this event, free to express their will, they most unequivocally expressed in favor of independence, and with an unanimity and enthusiasm which have no where been excelled.

The revolution in Mexico has been somewhat different in its character and progress, from the revolutions in the other Spanish American provinces, and its result, in respect to the organization of its internal government, has, also, not been precisely the same. Independence, however, has been as emphatically declared and as practically established, since the 24th of August last, by the "Mexican Empire," as ever it has been by the Republics of the South; and her geographical situation, her population and her resources, eminently qualify her to maintain the independence which she has thus declared, and now actually enjoys.

Such are the facts which have occupied the attention of your committee, and which, in their opinion, irresistibly prove, that the nations of Mexico, Colombia, Buenos Ayres, Peru, and Chili, in Spanish America, are in fact independent.

It now remains for your committee to examine the right and the expediency, on the part of the United States, of recognising the independence which those nations have thus effectually achieved.

In this examination, it cannot be necessary to inquire into the right of the people of Spanish America "to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, that separate and equal station to which the laws of nature and of nature's God entitle them." The right to change the political institutions of the State has, indeed, been exercised equally by Spain and by her colonies; and for us to deny to the people of Spanish America the right to independence, on the principles which alone sanction it here, would be virtually to renounce our own.

The political right of this nation to acknowledge their independence, without offending others, does not depend on its justice, but on its actual establishment. To justify such a recognition, by us, it is necessary only to show, as is already sufficiently shown, that the people of Spanish America are, within their respective limits, exclusively sovereign; and thus, in fact, independent. With them, as with every other Government possessing and exercising the power of making war, the United States, in common with all nations, have the right of concerting the terms of mutual peace and intercourse.

Who is the *rightful sovereign* of a country, is not an inquiry permitted to foreign nations, to whom it is competent only to treat with "the powers that be."

There is no difference in opinion, on this point, among the writers on public law; and no diversity, with respect to it, in the practice of civilized nations. It is not necessary, here, to cite authority for a doctrine familiar to all who paid the slightest attention to the subject; nor to go back, for its practical illustration, to the civil wars between the houses of York and Lancaster. Long since, the chiefs of those conflicting houses alternately triumphed and ruled, and were alternately obeyed at home and recognised abroad,

according as they, successively, exercised the power, without demonstrating the right—monarchies have become commonwealths or republics, and powerful usurpers have been recognised by foreign nations, in preference to legitimate and powerless pretenders. Modern history is replete with instances in point. Have we not, indeed, within the brief period of our own remembrance, beheld governments vary their forms, and change their rulers, according to the prevailing power or passion of the moment, and doing so in virtue of the principle now in question, without materially and lastingly affecting their relations with other governments? Have we not seen the emperors and kings of yesterday receive, on the thrones of exiled sovereigns, who claimed the right to reign there, the friendly embassies of other Powers, with whom those exiled sovereigns had sought an asylum—and have we not seen to-day those emperors and kings, thus courted and recognised yesterday, rest of their sceptres, and, from a mere change of circumstances, not of right, treated as usurpers by their successors, who, in their turn, have been acknowledged and caressed by the same foreign Powers?

The peace of the world, and the independence of every member of the great political family, require that each should be the exclusive judge of its own internal proceedings, and that the fact alone should be regarded by foreign nations. "Even when civil war breaks the bonds of society and of government, or, at least, suspends their force and effect, it gives birth in the nation to two independent parties, who regard each other as enemies, and acknowledge no common judge." It is of necessity, therefore, that these two parties should be considered, by foreign States, as two distinct and independent nations. To consider or treat them otherwise, would be to interfere in their domestic concerns, to deny them the right to manage their own affairs in their own way, and to violate the essential attributes of their respective sovereignty. For a nation to be entitled, in respect to foreign States, to the enjoyment of these attributes, "and to figure directly in the great political society, it is sufficient that it is really sovereign and independent: that is, that it governs itself by its own authority and laws." The people of Spanish America do, notoriously, so govern themselves, and the right of the United States to recognise the governments, which they have instituted, is incontestible. A doubt of the expediency of such a recognition can be suggested only by the apprehension that it may injuriously affect our peaceful and friendly relations with the nations of the other hemisphere.

Can such an apprehension be well founded?

Have not all those nations practically sanctioned, within the last thirty years, the very principle on which we now propose to act; or have they ever complained of one another, or of us, for acting on that principle?

No nation of Europe, excepting Spain herself, has, hitherto, opposed force to the independence of Spanish America. Some of those nations have not only constantly maintained commercial and friendly intercourse with them, in every stage of the Revolution, but indirectly and efficiently, though not avowedly, aided them in the prosecution of their great object. To these the acknowledgment, by the United States, of the attainment of that object, must be satisfactory.

To the other nations of Europe, who have regarded the events occurring in Spanish America, not only

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without interference, but with apparent indifference, such an acknowledgment ought not to be offensive.

The nations who have thus respectively favored, or never opposed, the Spanish American people during their active struggle for independence, cannot, it is believed, regard with dissatisfaction the formal recognition of that independence by a nation, which, while that struggle lasted, has religiously observed, towards both the conflicting parties, all the duties of neutrality. Your committee are therefore of opinion, that we have a right, on this occasion, confidently to expect, from what these nations have done or forborne to do, during the various fortunes of the civil war which has terminated, that they will frankly approve the course of policy which the United States may now think proper to adopt in relation to the successful party in that war. It surely cannot be reasonably apprehended, that nations who have thus been the tranquil spectators, the apparent well-wishers, if not the efficient supporters, of this party, and who have not made the faintest attempt to arrest its progress, or to prevent its success, should be displeased with a third Power, for merely recognising the Governments which, owing to that success, have thus been virtually permitted, or impliedly approved, in acquiring the undisputed and exclusive control of the countries in which they are established. It is therefore on the consistency as well as on the justice of these nations of Europe, that we may confidently rely, that the simple recognition, on the part of the United States, of the necessary effect of what has already been done, will not be considered as a just cause of complaint against them; while the interested and immediate agents, who have been directly and actively engaged in producing that effect, have neither been opposed nor censured.

Your committee, therefore, instead of seriously apprehending that the recognition, by the United States, of the independence of Spanish America, will be unacceptable to these nations, are not without hope that they may practically approve it, by severally adopting a similar measure. It is not, indeed, unreasonable to suppose, that those Governments have, like this, waited only for the evidence of facts which might not only suffice to justify them, under the laws and usages of nations, but to satisfy Spain herself, that nothing has been prematurely done, or which could justly offend her feelings, or be considered as inconsistent with her rights. As their motives for not having hitherto recognised the independence of Spanish America, may thus be supposed to have been analogous to our own, it is permitted to presume that the facts and reasons which have prevailed on us no longer to hesitate, will, confirmed as they are by our example, have a like influence on them.

No nation can entertain a more sincere deference for the feelings of Spain, or take a more lively interest in her welfare, than the United States. It is to this deference, too evident to be doubted or misunderstood, that ought to be ascribed the hesitation of this Government, until now, to yield to the claims of Spanish America, although these claims were in perfect accordance with our own principles, feelings, and interests. Having thus forborne to act, even at the hazard of having those principles and feelings misunderstood on this side of the Atlantic, we have, as your committee believe, given at once satisfactory proof of our disinterestedness and moderation; and of our scrupulous respect to the principle which leaves the political institutions of every foreign State to be directed by its own view of its own rights and interests.

Your committee have been particularly anxious to show, in a manner satisfactory to Spain herself, that the measure which this Government now proposes to adopt, has been considered with the most respectful attention, both in relation to her rights and to her feelings.

It is not on the laws and usages of nations, or on the practice of Spain herself on like occasions, that your committee have relied for our justification towards her.

The fact that, for the last three years, she has not sent a single company of troops against her transatlantic colonies, has not been used as evidence of their actual independence, or of her want of power to oppose it. This fact, explained as it is, by the public acts of Spain herself, is regarded by your committee as evidence only of her policy.

The last troops collected at Cadiz, in 1819, which were destined to suppress the revolutionary movements in Spanish America, not only rejected that service, but joined in the revolution, which has since proved successful in Spain itself. The declaration of the leaders in that revolution was, that "Spanish America had a right to be free, and that Spain should be free." Although the constitution, which was re-established by that revolution, guaranteed the integrity of the Spanish dominions, yet the principles on which that constitution was founded seem to discountenance the employment of force for the accomplishment of that object, in contempt of the equal rights and declared will of the American portion of the Spanish people. The conduct of the Government, organized under that constitution, has uniformly been, in this respect, in conformity to those principles. Since its existence, there has not been even a proposal by that Government to employ force for the subjugation of the American provinces, but merely recommendations of conciliatory measures for their pacification.

The answer of the Cortes, on the 10th of July, 1820, to the address of the King, furnishes conclusive proof of this policy.

"The intimate union," says this answer, "of the Cortes with your Majesty; the re-establishment of the constitution; the faithful performance of promises, depriving malevolence of all pretext, will facilitate the pacification of the ultra marine provinces, which are in a state of agitation and dissension. The Cortes, on its part, will omit no opportunity to propose and adopt measures necessary for the observance of the constitution and restoration of tranquillity in those countries, to the end that the Spain of both worlds may thus form a single and happy family."

Although the ultra marine provinces are not here encouraged to expect absolute independence, yet they are no longer treated as vassal colonies, or threatened with subjugation, but are actually recognised as brothers in the great constitutional and free family of Spain.

A report made to the Cortes on the 24th of June, 1821, by a committee appointed by that body, not only manifestly corroborates the policy above stated, but sufficiently intimates that the recognition of the independence of Spanish America by Spain herself had nearly been the measure recommended by that committee.

That report avers that "tranquillity is not sufficient, even if it should extend throughout America, with a prospect of permanency. No; it falls short of the wishes of the friends of humanity."

In speaking of the measure demanded by the crisis, it

says, that this measure was not only warmly approved by the committee, but at first entirely assented to by the Ministers with whom it had been discussed, and failed only to be proposed to the Cortes "by these Ministers having, on account of peculiar occurrences, suspended their judgment." It speaks of this measure as indicative of a new and glorious resolution; that it was demanded by America and the true interests of the Peninsula; that from it Spain might reap advantages which otherwise she could never expect; and that the ties of kindred and the uniformity of religion, with commercial relations, and those emanating from free institutions, would be the surest pledge of mutual harmony and close union.

Your committee do not feel themselves authorized to say positively what that measure was, but they do not hesitate to declare their entire conviction that no measure short of a full recognition of unconditional independence, could have deserved the character nor been capable of producing the effects ascribed to it.

It is therefore sufficiently manifest that Spain, far from wishing to call into action her means of prosecuting hostilities against the people of Spanish America, has renounced even the feelings of an enemy towards them, and but for "peculiar occurrences" had been prepared nearly a year ago to consent to their independence.

She has not only practically discontinued, and even emphatically deprecated, the employment of force to restore tranquillity to Spanish America, but she has declared that even universal and permanent tranquillity there "falls short of the wishes of the friends of humanity."

While she appeals to the ties of kindred," she undoubtedly feels them; and if she has not abandoned her desire, so often avowed, of mere constitutional union and equal commercial intercourse with her former colonies, as between provinces of the same empire, a union and an intercourse which intervening Andes and oceans seem to render highly inconvenient, if not utterly impracticable, she evidently refers the accomplishment of this desire to the unawed deliberations and to the congenial and kindred feelings of the people of those colonies, and thus substantially acknowledges their independence.

Whatever may be the policy of Spain, however, in respect to her former American colonies, our recognition of their independence can neither affect her rights nor impair her means in the accomplishment of that policy. We cannot for this be justly accused of aiding in the attainment of an independence which has already been established without our assistance. Besides, our recognition must necessarily be co-existent with the fact on which it is founded, and cannot survive it. While the nations of Spanish America are actually independent, it is simply to speak the truth to acknowledge them to be so.

Should Spain, contrary to her avowed principles and acknowledged interests, renew the war for the conquest of South America, we shall indeed regret it; but we shall observe, as we have done between the independent parties, an honest and impartial neutrality. But on the other hand should Spain, faithful to her own glory and prosperity, consent that her offspring in the New World should enjoy the right of self-government equally with their brethren in the Old, we shall sincerely rejoice; and we shall cherish with equal satisfaction, and cultivate with equal assiduity, the friendship of regenerated Spain and of emancipated America.

Your committee, in justice to their own feelings and to the feelings of their fellow-citizens, have made this declaration without disguise; and they trust that the uniform character and conduct of this people will save it from all liability to misinterpretation.

Happy in our own institutions, we claim no privilege; we indulge no ambition to extend them to other nations; we admit the equal rights of all nations to form their own Governments and to administer their own internal affairs as they may judge proper; and however they may in these respects differ from us, we do not on that account regard with the less satisfaction their tranquillity and happiness.

Your committee, having thus considered the subject referred to them in all its aspects, are unanimously of opinion that it is just and expedient to acknowledge the independence of the several nations of Spanish America, without any reference to the diversity in the forms of their governments; and, in accordance with this opinion, they respectfully submit the following resolutions:

Resolved, That the House of Representatives concur in the opinion expressed by the President in his Message of the 8th of March, 1822, that the American provinces of Spain which have declared their independence, and are in the enjoyment of it, ought to be recognised by the United States as independent nations.

Resolved, That the Committee of Ways and Means be instructed to report a bill appropriating a sum, not exceeding one hundred thousand dollars, to enable the President of the United States to give due effect to such recognition.

[TRANSLATION.]

Extract from the report of the Committee [of the Spanish Cortes] to whom was referred the disturbances in the American provinces, with instructions to prepare measures for their general pacification.

"Still New Spain, or rather the whole of the Spanish provinces in North America, having almost entirely returned to a state of tranquillity, at that period so desolating a war was terminated; while, on the other hand, a considerable part of Peru constantly adhered to Spain, as has also been the case with Cuba and the other islands. Thus, while on the Main, in Buenos Ayres, and in Chili, the afflicting spectacle was beheld of Spanish and American blood being shed by the very hands which had the greatest interest in its preservation—the most important part of Spanish America remained free from so many calamities. But this tranquillity is not sufficient, even if it should extend throughout America with a prospect of permanency. No! it falls short of the wishes of the friends of humanity. It is necessary that America should build her happiness upon a solid foundation, so that, far from counteracting, she may contribute to the prosperity of Europe.

"Your committee, persuaded of this truth, discussed in their several sittings the questions which appeared most proper to attain the grand object we all have in view. These were examined in conjunction with His Majesty's Ministers, who, in the beginning, entirely coincided in the general opinion prevailing in the committee, but were subsequently induced, by peculiar occurrences, to suspend their judgment, believing that public opinion was not yet prepared for a final decision. In this situation your committee are unable to bring forward any formal proposition, inasmuch as it belongs to the Government to determine the matter of

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fact, that is to say, as to the expediency and urgency of certain measures; and the Cabinet not thinking that moment yet arrived, nothing now remains to your committee but strongly to recommend to Ministers the acceleration of so desirable a moment. This is loudly called for by justice; it is demanded by the uncertain and precarious fate of so many European Spaniards settled in those countries; it is demanded by the natives themselves, and the different classes who have so gallantly supported the cause of the metropolis; in fine, it is demanded by America and the true interests of the Peninsula—the prosperity of the former resting in the restoration of tranquillity, which will prove a source of incalculable benefit to her; and that of the latter in not being obstructed in her progress, by having her councils distracted by cares created by the deplorable situation of those distinct climes. The lights of the age and a wise policy ought to guide the Government in forming so new and so glorious a resolution.

“Your committee, fully sensible of the greatness of the subject, and believing that their decision will, perhaps, affect the interests of the whole world, would wish to impress upon the minds of all Spaniards this, their firm conviction, that they might all contribute to the completion of so great a work. Spain would reap advantages which otherwise she can never expect; and the ties of kindred, and the uniformity of religion, together with commercial relations, and those emanating from free institutions, would be the surest pledge of mutual harmony and close union. Your committee, therefore, not being able alone to come to any determination, content themselves with simply proposing that Ministers be urged to lay before the Cortes, with the least possible delay, the fundamental basis of such measures as they may deem advisable and just, both for the complete pacification of the distracted provinces of America, and to secure to them all solid and lasting happiness.”

CONTESTED ELECTION.

The House then went into consideration of the unfinished business of yesterday, (the contested election of Messrs. Causden and Reed.)

The question was first taken upon concurrence with the Committee of the Whole in their agreement to the first resolution reported by the Committee of Elections, viz: “That Jeremiah Causden is not entitled to a seat in the House,” and the same was affirmed, ayes 91, noes 27.

The question was then about to be put on agreeing to the other resolution reported by the committee, as yesterday amended, so as to declare that Mr. REED is not entitled to a seat.

Mr. WRIGHT moved a reconsideration of the vote taken yesterday, denying the right of General Reed to a seat in the House; and, the question being taken thereon, the reconsideration was refused—ayes 66, noes 68.

Mr. CHAMBERS moved to amend the resolution as amended in Committee of the Whole, by inserting, in lieu thereof, after the word “resolved” the following words—“that Jeremiah Causden and Philip Reed having an equal number of votes, therefore, Philip Reed is not entitled to a seat in this House.”

Mr. COLDEN and Mr. EDWARDS of North Carolina opposed the amendment, and, the question

being taken thereon, the same was negatived without a division.

The question then recurring upon the second resolution as amended and reported by the Committee of the Whole,

Mr. WILLIAMS, of North Carolina, and Mr. WOOD opposed the same, and Messrs. RHEA, F. JOHNSON, and BARBER of Ohio, supported it; when, on motion of Mr. WILLIAMS of North Carolina, the yeas and nays were ordered, and the question being so taken, stood—yeas 74, nays 75, as follows:

YEAS—Messrs. Baldwin, Ball, Barber of Ohio, Bassett, Bateman, Bigelow, Borland, Brown, Butler, Campbell of New York, Cannon Cocke, Colden, Conkling, Conner, Cook, Cuthbert, Darlington, Denison, Dickinson, Dwight, Edwards of Connecticut, Farrelly, Findlay, Fuller, Garnett, Gebhard, Gilmer, Gist, Gorham, Harvey, Hawks, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Lathrop, Leftwich, Little, Lowndes, McCarty, McCoy, Mallary, Matlack, Matson, Metcalf, Mitchell of South Carolina, Moore of Virginia, New, Newton, Overstreet, Phillips, Plumer of New Hampshire, Rankin, Rhea, Russ, Sawyer, Arthur Smith, Spencer, Sterling of New York, Stevenson, Taylor, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Whipple, Williams of Virginia, and Woodcock.

NAYS—Messrs. Alexander, Allen of Massachusetts, Barber of Connecticut, Bayly, Blackledge, Blair, Buchanan, Burton, Campbell of Ohio, Cassidy, Chambers, Condict, Crafts, Cushman, Dane, Eddy, Edwards of Pennsylvania, Edwards of North Carolina, Hall, Hendricks, Herrick, Hill, Hubbard, Hooks, Jones of Virginia, Jones of Tennessee, Keyes, Lincoln, Litchfield, Long, McLane, McNeill, McSherry, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rich, Rogers, Ross, Russell, Sanders, Sloan, S. Smith, J. S. Smith, Sterling of Connecticut, Stewart, Stoddard, Swan, Swearingen, Thompson, Vance, Van Rennselaer, Van Wyck, Walker, Walworth, White, Whitman, Williams of North Carolina, Williamson, Wood, Woodson, Worman, and Wright.

The SPEAKER, under the rule of the House—“that, in all cases of ballot by the House, the Speaker shall vote; in other cases he shall not vote, unless the House be equally divided, or unless his vote, if given to the minority, will make the division equal; and, in case of such equal division, the question shall be lost”—voted in the affirmative, which made an equality of votes upon the proposition before the House. The effect of this vote was decided by the Chair to be, that the affirmative proposition, viz: *Philip Reed is not entitled to a seat in this House*, was lost, and was equivalent to a determination in the affirmative of the original proposition of the Committee of Elections in favor of Mr. Reed.

Mr. BALDWIN appealed from the decision of the Chair, and on that question the mover and Messrs. SMITH of Maryland, RHEA, FARRELLY, GORHAM, WALWORTH, LOWNDES, WRIGHT, ARCHER, ROSS,

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LITTLE, WHITMAN, CAMPBELL of Ohio, STEVENSON, TUCKER of Virginia, MONTGOMERY, and SMYTH, respectively expressed their sentiments, when the question was taken, and the decision of the Chair was reversed.

Mr. SANDERS then presented the following resolution:

Resolved, That Philip Reed is entitled to a seat in this House, as one of the Representatives of Maryland.

On this question the yeas and nays were ordered, and the resolution was carried—yeas 82, nays 77, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Barber of Connecticut, Bayly, Blackledge, Blair, Breckenridge, Buchanan, Burton, Campbell of Ohio, Cassedy, Chambers, Condict, Crafts, Cushman, Dane, Eddy, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Hall, Hendricks, Herrick, Hill, Hobart, Hooks, Jones of Virginia, Jones of Tennessee, Keyes, Lincoln, Litchfield, Long, McDuffie, McLane, McNeill, McSherry, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Alabama, Morgan, Neale, Nelson of Massachusetts, Patterson of New York, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rich, Rogers, Ross, Ruggles, Russell, Sanders, Sloan, S. Smith, W. Smith, J. S. Smith, Sterling of Connecticut, Stewart, Stoddard, Swan, Swearingen, Tatnall, Thompson, Vance, Van Wyck, Walker, Walworth, White, Whitman, Williams of North Carolina, Williamson, Wood, Woodson, Worman, and Wright.

NAYS—Messrs. Baldwin, Ball, Barber of Ohio, Bassett, Bateman, Baylies, Bigelow, Borland, Brown, Burrows, Butler, Campbell of New York, Cannon, Cocke, Colden, Conkling, Conner, Cook, Cuthbert, Darlington, Denison, Dickinson, Dwight, Edwards of Connecticut, Farrelly, Findlay, Fuller, Garnett, Gebhard, Gilmer, Gist, Gorham, Gross, Harvey, Hawks, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Lathrop, Leftwich, Little, Lowndes, McCarty, McCoy, Mallary, Matlack, Matson, Mercer, Metcalfe, Mitchell of South Carolina, Moore of Virginia, Newton, Overstreet, Phillips, Plumer of New Hampshire, Rankin, Rhea, Russ, Arthur Smith, Alexander Smyth, Spencer, Sterling of New York, Stevenson, Taylor, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Whipple, Williams of Virginia, and Woodcock.

Whereupon Mr. REED appeared, was qualified, and took his seat as one of the Representatives from the State of Maryland; and then the House adjourned.

WEDNESDAY, March 20.

Mr. NEWTON, of Virginia, called for the consideration of a bill to extend the limits of the port of entry and delivery for the district of Philadelphia; and, the House having agreed to consider the same, it was ordered to be engrossed for a third reading.

Mr. LATHROP submitted the following resolution:

Resolved, That a committee be appointed to consider and report what business it is necessary for the

House of Representatives to act upon during the present session.

On motion of Mr. MALLARY, the resolution was ordered to lie on the table.

On motion of Mr. RICH, the Committee of Claims were instructed to inquire into the expediency of providing by law for a settlement, upon the best evidence of which the cases will admit, of the accounts of persons charged with public moneys on the books of the Third Auditor of the Treasury, prior to the 1st of July, 1815.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," with amendments; and they have also passed bills of the following titles, to wit:

1. An act for the relief of the heirs and representatives of Alexander Montgomery;
2. An act to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river with Lake Michigan;
3. An act authorizing the payment of a sum of money to John Gooding and James Williams;
4. An act for the relief of Samuel H. Walley and Henry G. Foster;
5. An act for the relief of Jacob Babbitt;
6. An act for the relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased;
7. An act for the relief of Samuel Walker;
8. An act for the relief of Matthew McNair;
9. An act granting to the corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city;
10. An act granting a tract of land to William Conner and wife, and to their children;

In which amendments and last mentioned bills they ask the concurrence of this House.

The said last mentioned bills from the Senate were severally read twice, and referred; the

1st, to the Committee on Private Land Claims.

2d, to the Committee of the whole House, to which is committed the bill to authorize the State of Illinois to open a canal through the public lands, to connect the waters of the Illinois river with Lake Michigan.

3d, 4th, and 5th, to the Committee of Ways and Means.

6th, to the Committee on Commerce.

7th and 8th, to the Committee of Claims; and the

9th and 10th, to the Committee on the Public Lands.

The amendments proposed by the Senate to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," were read, and referred to the Committee on the Public Lands.

An engrossed bill, entitled "An act granting certain privileges to steamships and vessels owned by incorporated companies," was read the third time, and passed.

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LAND OFFICES.

The resolution submitted yesterday by Mr. STERLING, of New York, calling for information relative to the contingent expenses of the land offices at Louisville, Franklin, Huntsville, and Cahaba, was called up.

Mr. MALLARY wished the inquiry to extend to all the land offices in the United States, and moved an amendment to that effect.

Mr. STERLING opposed the amendment on the ground that he believed it to be unnecessary to extend the inquiry beyond the limit he had proposed, and also on the ground that it would perhaps have the effect to protract the investigation of the subject, and preclude any efficient act in relation to it at this session.

Mr. SLOAN was opposed to the resolution altogether. He thought it would be productive of no beneficial result.

Mr. RANKIN was in favor of the resolution, but deemed the amendment unnecessary.

Mr. MALLARY made some further remarks in support of the amendment; upon which, the question being taken, it was negatived.

Mr. RICH then moved to erase the items of incidental expenditures, and to insert, in lieu thereof, that there should be a general statement under each head of expenditure.

Mr. COCKE opposed the amendment, and remarked, that it reached no further than the information which the House already possessed.

After some further remarks by Messrs. RICH and STERLING of New York, the amendment was withdrawn, and the resolution was adopted as originally moved.

ADJOURNMENT OF CONGRESS.

The House proceeded to consider, by a vote of 79 to 74, the resolution of the Senate, proposing to close the present session of Congress, on the first Monday of April.

Mr. BASSETT moved to strike out the words "first Monday in April," so as to leave the period of adjournment in blank.

Mr. LATHROP proposed to commit the resolution to a select committee, with instructions to examine and report the business necessary to be done before the close of the session.

Mr. EDWARDS, of North Carolina, was in favor of the reference suggested by the gentleman from Massachusetts, (Mr. LATHROP,) but wished it to be done without giving instructions to the committee.

Mr. HARDIN hoped that somebody would be heard on this subject, besides the gentleman from North Carolina, (Mr. EDWARDS,) and the gentleman from Massachusetts, (Mr. LATHROP.) It was a matter in which other members of the House had an interest. What, he asked, was the usual course of business? The first two-thirds of the session was occupied in receiving petitions, maturing business—meeting late, and adjourning early; and, if holidays intervene, pass through the forms of meeting and adjourning, without doing any business of importance; and one-third of the remainder of the session was ordinarily consumed

in debating the question at what time Congress should adjourn. He wished to go home as much as other gentlemen who have families, and certainly as much as those who have none, but it was the bounden duty of this House, before its members separated, to do the business of the nation which they were sent here to perform. He was opposed at all events to giving powers and instructions to a committee to select the business. It ought to take the course prescribed by the miller, and that which was first presented should be first done. He had three years ago presented a petition, possessed of strong and peculiar merits, which had been favorably reported on by the Committee of Claims, and God knows, said Mr. H., it must have merits if it could pass that Committee, and yet this Committee of Arrangement had annually arranged it out of the House. He was not prepared to tell the people, we have sat here as long as our convenience suited—we have done no business—but we have got our eight dollars a day, and now we wish to go home, and leave the business of the nation undone. Mr. H. concluded his remarks by moving that the resolution be laid on the table; but, on suggestion, he withdrew that motion, to give way to

Mr. BALDWIN, who moved to commit the resolution to a Committee of the Whole House and make it the order of the day for to-morrow, so that it might take its regular place on the docket.

Mr. SANDERS opposed the motion. He wished that some period for adjournment might be fixed on. It would greatly facilitate the business, as gentlemen would then have their eye fixed on that event, and shape their business and their speeches accordingly. He was not particularly anxious for an early adjournment, but he believed it essential that the time should be determined on, and if the present motion were negatived he would then move to fill the blank with the last Monday in April.

Mr. SMITH, of Maryland, was not surprised that the gentleman from North Carolina, (Mr. SANDERS,) and other gentlemen who had not long experience in this House, should entertain the sentiments they advanced. In the State Legislatures it was not difficult to fix the period of terminating the session. There the business of each was known to all, and it was easy to measure the time it would occupy. But it was not so in the National Legislature. Here was a vast variety of business, collected from the various parts of this widely extended empire, and it was impossible for each member to know in what time the whole of the necessary business could be accomplished. Added to this, there were many new members upon the floor, who could not immediately become acquainted with the ordinary routine, and hence it had happened in the early part of the session that resolutions had been introduced, and long discussions grown out of them, calling for information upon subjects that were perfectly familiar to those who had the advantage of experience. But, although it must be confessed that much time had been spent in unproductive debate, yet it was also true that much business had been matured this session

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which it was important should be acted upon. As the gentleman from Kentucky (Mr. HARDIN) had remarked, it was commonly the case at the close of a session, private petitions are thrown aside, which in effect was equivalent to a denial of justice. Mr. S. was apprehensive that it was impossible for the House to do the necessary business before the 20th of May; nor was it until within a few years that Congress had adjourned before that period. He formerly knew a session that continued until July; and it was a well-known fact that the laws passed at the close of a session were slurred over, and put together so loosely that you might drive a coach and six through them. This resolution, he remarked, came from the Senate. And for what purpose? To tell the people that the House of Representatives had not done its duty. That the Senate was ready to adjourn, but that the House was wasting its time. Mr. S. disclaimed imputing any such intentions to that body; but such, he contended, was the obvious operation of it. And shall we say to our constituents, said Mr. S., that we have spent all our time in maturing the business, and that, as soon as we had done that, we had broken up without accomplishing it? If it is inconvenient to gentlemen to remain—that is a circumstance that they should have reflected on before they accepted of their seats; but, at all events, the business of the nation should not be sacrificed to suit the convenience of their Representatives. And now, said Mr. S., after the business has been three months preparing, this subject is taken up for debate and discussion, day after day, in order to hasten the public business!

Mr. RHEA supported the motion to commit, in a speech of considerable length; but his remarks could not be distinctly heard by the reporter.

Mr. CANNON believed that no time could be fixed on which would be agreeable to his colleague, (Mr. RHEA;) but he hoped that the time of the House would not be consumed by debating the question. The motion to commit would be equivalent to a vote of rejection, which he hoped the House would not consent to. The session had been spun out by speeches on one or two subjects, yet he did not think the legislation was more correct or perfect by so much speech-making. His observation had convinced him that the perfection of business did not consist in the length of the discussion; for he had remarked that, whenever a great question was made out of a small one, the members would soon withdraw their attention from it. Mr. C. expressed his belief that the House could dispose of all the necessary business before the time mentioned by the gentleman from North Carolina, (Mr. SANDERS.) Three days had been occupied upon a contested election, which might have been determined in two hours; and, if a period was fixed, it would put an end to useless discussion; yet he could hardly call it discussion; it was speech-making. Opinions were not formed or altered by debate. He hoped the mover would withdraw the motion; for, even if it were to succeed now, yet the question must be tried at some part of the session; and, if the ob-

ject were defeated now, yet it would certainly be brought up again.

Mr. J. SPEED SMITH was in favor of the motion. A proposal was now made to us, he observed, to adjourn; and why? Not because we had done the business, but because some spur was necessary to urge us on to our duty. It was unbecoming, he said, for this body to move with a halter round their necks; and he was unwilling to believe or admit that the House of Representatives could not trust themselves without a cord by which they could be guided. The argument of the gentleman from Kentucky, (Mr. HARDIN,) he conceived to be unanswerable, in relation to the business, and he briefly reviewed the various important matters pending before that body. We had gone, he said, through the formality of presenting and referring petitions; they had been laboriously examined by the committees, and the reports had been printed at a very considerable expense; but now we want to go home, and therefore we must leave the business undone, and the same formalities to be gone through with, and the same expense incurred, at the next session. But he would not fall into the error of his friend from Tennessee, (Mr. CANNON,) and, in making a long speech against speech-making, enforce by example what he had repelled by precept. For this reason he would sit down.

Mr. WOODCOCK observed that he regretted to take up the time of the House in the discussion of a subject, the object of which was to save time. But he was not willing that the resolution should have the go-by in the manner proposed by the motion. He hoped the question would be fairly met, and not got rid of in this manner. He should pay great deference and respect to the opinions of those who possessed greater experience in legislation than himself; but he could not but express his regret that the limit of every session had not been assigned by the Constitution. He admitted the right of members to make long speeches; nor did he wish to abridge that right by any other means than the exercise of their own discretion. We had now been here, he said, almost four months, and but little of the business had been finally disposed of. He wished some method to be adopted which should increase the despatch of the remainder, and he could conceive of no method so effectual as to limit the continuance of the session. If, as the gentleman from Maryland (Mr. SMITH) had suggested, it would be necessary to protract the session to the middle of May, be it so; he was willing to stay as long as the public interest required, but he hoped the proposition would be distinctly met.

Mr. F. JOHNSON remarked, that those who were in favor of the resolution advocated it on the ground that it was impossible to do all the business before the House, and therefore we ought to fix a day on which to adjourn. The same rule, he observed, would prove that we ought never to come here at all; for we could not do all the business before us if we were to continue in session until the third of next March. He was not disposed to manacle ourselves in such a manner that

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we could not move without the guidance of another body. If this is the course to be pursued, the right of petitioning has become a solemn mockery; and yet those gentlemen who are so anxious to get home, present, perhaps, as many petitions as any other members of the House. It was a hard case for persons to petition here, year after year, with fair claims upon the Government, and to be turned off because the servants of the people cannot stay to do them justice, from their wish to get home to their families. If we can't do the business of the people, let us honestly tell them so, and not hold out expectation, and torture them with disappointment. If there was any gentleman whose situation was such that he could not stay from home any longer, let him ask leave of absence. For one, he would vote for it, and it was possible that the House could even get along without him. We do not profess to come here, he observed, merely to be *honorable* members of Congress, and to make a great speech on the Bankrupt bill, or some other great question, but to do the business of the nation. Mr. J. referred to an important bill which had been preparing by the Committee of Ways and Means, and on which, judging of the future by the past, if he did not much mistake, the gentleman from Tennessee (Mr. CANNON) would spend more time in discussing than he was now willing to allow to Congress for the whole of the residue of the session. When there were only thirteen States, he remarked, the sessions were about as long as at present, when the States, population, and business to be done, were more than two to one, besides the incidental accumulation of claims growing out of the war. The people had a right to expect us to do their business; and, for his part, he was prepared to say that he would do it if it required a continuation of the session until the third of March next.

Mr. CONDUCT moved to lay the motion on the table, which was negatived.

Mr. WALKER, of North Carolina, expressed his sentiments in favor of the motion; when

Mr. CONDUCT moved that the further consideration of the resolution be postponed to the second Monday of April.

Mr. MOORE, of Alabama, renewed the motion to lay it on the table, which was again negatived; and the motion to postpone was agreed to.

EXCHANGE OF STOCKS.

On motion of Mr. SMITH, of Maryland, the House resolved itself into a Committee of the Whole on the state of the Union, on the unfinished business of Thursday last, on the bill authorizing the Secretary of the Treasury to exchange a stock bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent.

The question recurred upon the motion of Mr. BALDWIN to amend the first section of the bill, by extending the provisions of the bill so as to include also two millions of six per cent. stock created by the loan of 1820.

The question being taken on this motion for amendment, it was negatived without a division.

Mr. CAMBRELENG moved to amend the bill by striking out the whole of the first section, after the enacting clause, and to insert in lieu thereof the following:

"That the Secretary of the Treasury shall be, and he is hereby, authorized to propose an issue of stock, to an amount not exceeding thirty millions of dollars, bearing an interest of five per centum per annum, in exchange for any of the stock heretofore issued bearing an interest of six per centum per annum, and of the stock heretofore issued bearing an interest of seven per centum per annum; for which purpose, books shall be opened at the Treasury of the United States, and at the several Loan offices, on the 1st day of April, 1822, or as soon thereafter as may be practicable, to continue open until the first day of July next thereafter, for such parts of the aforementioned six and seven per cent stock, as shall, on the day of subscription, stand on the books of the Treasury, and on those of the several Loan offices, respectively; and the holders of the aforementioned stocks, who may become subscribers in the manner aforesaid, shall severally specify the terms upon which they propose to effect, the exchange hereby authorized: and the Secretary of the Treasury shall be, and he is hereby, authorized to accept such subscriptions of the aforementioned stocks as may be subscribed and offered, upon terms which he may deem advantageous to the United States; which subscriptions, accepted in pursuance of this authority, shall be effected by a transfer to the United States, in the manner provided by law for such transfers of the credit or credits standing on the said books; by a surrender of the certificates of the stock so subscribed; and by the payment into the Treasury of the United States of such premium, if there be any, as may be offered in consideration of the exchange thus effected."

In offering this amendment, Mr. C. said, he hoped the Committee would not pass the bill in its present shape; and he begged leave to explain his reasons for offering an amendment to a bill emanating from the Committee of Ways and Means. It limited the exchange to the stocks of 1812 and 1813. He thought it probable, if the negotiation was effected at all, these stocks only would be embraced; but he disliked specifying any particular stocks in the bill, as it made them at once objects of speculation. He was willing to enlarge the authority to be given the Secretary, that he might be enabled to effect the exchange upon terms most advantageous to the United States. He had, therefore, in the amendment, proposed to open the subscription for all the sixes and sevens. If no others were ultimately accepted but those of 1812 and 1813, it would not injure the negotiation for the holders of these particular stocks to know that the Secretary was authorized to accept others. Besides, it was impossible for the Secretary or this House to anticipate the prices of stocks.

The section, as it stands, provides only for the exchange of five per cent. for six and seven per cent. stock. It supposes a rare coincidence—an equality in the price of five per cent. ten years' stock, and of six and seven per cent. stock redeemable in three or four years. Now, sir, if it be for the interest of the holders of these stocks to make the exchange, they will do so; and, if this be the case, may they not be willing to offer a pre-

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mium for the preference? At least, this case may happen, and provision ought to be made for such a contingency, unless we were disposed generously to give the stockholders the premium.

The section suspends the subscription till next October. He thought if it was to be passed in that shape, it would be useless to pass it at all. The market rate of interest had been advancing for twelve months, and was now advancing; the bill ought to have been acted on two months earlier, and the negotiation, if authorized at all, ought to be effected as early as practicable. He doubted whether we had not even now let the opportunity escape, and he was very certain it would be impracticable twelve months hence. Gentlemen who proposed to suspend the negotiation until next October, November, or December, should reflect that a general revival of trade was sensibly operating upon and absorbing the idle capital of the country, and they should also reflect that, during the present year, we shall probably receive important intelligence relating to the affairs of Europe, which would affect the prices of the stocks of all Governments. He hoped the amendment would be adopted, and that the exchange, if practicable at all, would be made forthwith.

Mr. F. JOHNSON said, that gentlemen had said that this was the most important bill which had been presented to the House during the session, and he was willing to admit its great importance, while he should ask the indulgence of the Committee to make a few observations.

The bill proposes to put it in the power of persons owning twelve millions of the public debt contracted in 1812, and redeemable or not at the pleasure of the Government in 1825, on a part of which is paid six, and a part seven per cent.; and fourteen millions of the debt contracted in 1813, and redeemable in like manner in 1826, bearing an interest of six per cent., to relinquish that debt and take, in lieu thereof, a debt on the Government to be created, bearing an interest of five per cent., which the Government shall not be at liberty to pay off until 1832, 33-34.

He preferred the amendment proposed by the gentleman from New York (Mr. CAMBRELENG) to the original section, as reported, and particularly, because it did not limit the negotiation to an exchange on equal terms; for he knew of no reason why we should give to the brokers a stock worth eight or ten per cent. above par, in exchange for stock that was worth but five or six. But he was opposed both to the amendment and the bill, for it seemed to presuppose no exertion on the part of Congress to pay off the public debt. If, during the period of the loan and redemption, we have an excess of revenue, we cannot appropriate it to this object. A time of peace was the proper time to extinguish the debt. Every effort should be made to effect it, and, if we cannot do it otherwise, we ought to reduce and retrench our expenditures. And shall we now say, at a time when there is no prospect of war, that it is expedient to postpone the debt, instead of paying it off? And for what? Where is the reason and necessity of so doing? Mr. J. was not satisfied that any beneficial result

could grow out of the measure. He did not believe that Congress could calculate money matters and stocks better than the brokers. They were as able to calculate the contingencies of war in Europe, as we could be; and they could judge as well, to say the least, as we could, what would be the effect of such contingencies, to increase or diminish the value of stock. It was their business and their pursuit, to which they gave undivided attention. All the affairs of our own Government also were open to their inspection, and they will not make the exchange unless they can get the best of the bargain. They will calculate whether the Government will redeem the stock or not, and they will inevitably out-calculate us. Mr. J. believed, that if we should want money hereafter, we could obtain it on better terms than by adopting this measure. He thought we should use all our efforts to discharge the debt, but not to postpone it. We must retrench our expenses. Look to the Navy. He was a friend to it, but he believed it opened an ample field for retrenchment, without taking away its efficiency. Savings might also be made in the civil and other departments, the fortifications, &c. We were now paying an annual interest of \$5,700,000 on the public debt, and such was our situation, that we were now paying interest on interest. In such a condition, in his private affairs, a prudent man would look about him for objects of reduction, and for such means as should be calculated to relieve him from the burden of debt. Although this bill purported to provide only for an exchange of stocks, it was really and substantially a bill for creating a new loan, and, as such, it ought, in his opinion, to be regarded

He liked things to be called by their right names; they would then be better understood by the people. The competition offered by either the bill or amendment, was confined to the present creditors of the Government; no other than an owner of the one or the other description of stock can become purchasers of this new loan; and it cannot therefore be expected, that as good a bargain can be had for the Government, as if the market was opened to all; and this was another objection with him to the bill. What! authorize a loan of thirty millions, and confine it to a particular description of individuals! It was wrong in policy and principle; rely upon it, if the bargain you offer is advantageous to the holders of the present stock, they will accept it; if it is not, they will not; so that the alternative, either way, is a bad bargain to the Government. Nor has it been shown that money will be scarcer two years hence than it is now; and, as we are to make a bad bargain if we make any, what good reason can be assigned against postponing this loan of thirty millions, until we have redeemed as much as we can, and what is not then redeemed may be put in market, in which others as well as the present stockholders, will have a right of bidding, and which will insure a more advantageous contract to the Government? We may then get the full value of the stock, which we cannot now reasonably expect; it will then be time enough to adopt the sad alternative of loans, when better cannot be done. Mr. J. said,

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the measure might have one effect, which some gentlemen might esteem beneficial; that was, it might do away the plea of necessity of retrenchment and reform, and permit things to remain as they are. This, he said, was what he wished to avoid; and he must be allowed to believe that the Government would, at least if Congress would do its duty in reforming the disbursements of public expenditure, be able to discharge a considerable part of the public debt; but if the debt be postponed until 1831,—2,—3, let the funds and resources of the Government be what they may, we cannot pay it until that time, and having money, we shall be apt to waste it; whereas, if we keep the public debt in our reach, and in view, we shall make exertions to pay it.

Mr. McDUFFIE stated that he should not have troubled the Committee with any remarks on this subject, if the range of the observations of the gentleman from Kentucky (Mr. JOHNSON) had not assumed a broader cast than he had reason to anticipate. The objections of that gentleman seemed to be founded upon a misconception of the nature of the obligations of the Government to discharge its public debt, and of the means of preserving the public faith and public credit unimpaired. To whom does the obligation of the Government extend? To the public creditors, and to them only. Now the proposition involved in this bill proposes to do nothing but with the consent of the public creditors. And what fact could furnish more conclusive evidence of the high credit of the Government than that the public creditors should be anxious to exchange six or seven per cent. stock, redeemable at an earlier period, for five per cent. stock, redeemable at a period more remote? But the gentleman from Kentucky seems to assume that we are bound, upon principles of public policy, to hasten the extinguishment of the public debt, without a proper regard to the existing revenue. Mr. McD. contended that no principle, either of justice or sound policy, could require that the whole burden of the war debt should be thrown upon that disastrous period of embarrassment which succeeds the war, and is produced by it. For how, said he, stands the argument? We go to war without any preparation. Our system of revenue is prostrated by the very state of things which renders revenue necessary. In war, therefore, we must always contract an enormous public debt; for our principal dependence in war must be upon loans. We sustain the burdens and privations of the war; we fight the battle; and when it is brought to a close, exhausted as we are by the conflict, we are required upon principles of policy to pay off the debt immediately, though the public creditors are anxious that we should not. It is clearly a question between the present generation and posterity; and nothing could be more obviously just than that the debt contracted for the establishment of those principles, in which posterity have as deep an interest as we have, should not fall exclusively upon those who have already had more than their proportion of sacrifice and suffering. The gentleman had said that we were compelled to in-

crease our debt by a loan last year. This fact tended rather to favor than oppose the projected exchange. For how, said Mr. McD., can an argument in favor of the rapid extinguishment of the public debt be drawn from the fact, that our revenue was inadequate to pay the interest of the debt, keep up the operations of the Sinking Fund, and defraying the current expenses of the Government? It seemed to involve an inconsistency which he could not comprehend. But it seems that we are to be driven back into the condition in which the late war found us. We are to cut down these establishments, founded upon the experience and disasters of that war, and to run again into a system of wasteful economy, such as had brought upon us the heavy debt we are now required to discharge. In fact, said he, if we wish to avoid a public debt, we must change our system of revenue, so as to render it permanent. If we are not prepared for this, we must reconcile ourselves to a public debt, as without loans we cannot meet those exigencies, which we are certainly destined to encounter.

Mr. SMITH, of Maryland, remarked that the subject had taken a different course from what he had expected. He had not hitherto explained the principle of the bill—nor would his health permit him to do so extensively now. The gentleman from Kentucky, (Mr. JOHNSON,) had not appeared to view the subject in that light, in which he hoped his better judgment would lead him. He has said that we should not procrastinate, but pay off. He agreed it was desirable, but it was not in our power. The object of the bill was to be prepared to pay off the debt. The money market is now favorable for the operation—but it may not be so in 1825. The money market is rising. The calculation is to seize the present opportunity. Twenty-six millions of dollars of the stock due in 1825 and 1826, is proposed to be exchanged by this operation; if carried into complete effect more than two millions of dollars will be saved to the United States. It was intended to postpone it to a period when we shall be able to extinguish it. Information had been received from New York and Boston that left no reasonable doubt that the proposition would be accepted by the creditors. On the first of January, 1825, we must meet these demands, and he knew of no other adequate means to effect it. Mr. S. reviewed, at considerable length, the financial concerns of the country to show the necessity and expediency of adopting the bill as reported by the Committee of Ways and Means. In 1824 it was calculated that the whole of the public debt would be redeemed. He had seen and conversed with the Secretary of the Treasury, since the bill was reported, who informed him that the custom-house bonds of the last quarter of the last year had exceeded his expectation by the amount of one million of dollars. It had been said that we ought, by no act of ours, to deceive the people. This was a truism. It was a position that no person would deny; but he believed the Secretary of the Treasury would not propose, and he hoped the Committee of Ways and Means would not be

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found to sanction or sustain such a proposition. Mr. S. thought the present was a palpable case, and that there could be no reason for refusing assent to such a measure, which was calculated to diminish the national debt. It was very true that this proposition would defer the payment of the public debt, but it would be with the consent of the creditors—and in such case there could be no complaint, nor pretence of injustice. In respect to the amendment, he thought it did not differ much from the principle of the bill; but he was not satisfied that it was preferable to the section as reported. Mr. S. took a particular view of the several parts of the amendment, and to show that it did not improve the bill, but would be injurious to it. The proposition to extend the subscription had been considered by the Secretary of the Treasury and the Committee of Ways and Means, and was deemed unadvisable after deliberation. The probability that the other holders of stock would subscribe was, to say the least, very remote. There was no adequate inducement, and would have the effect to throw so much into the market as might perhaps defeat the object. In another particular, also, the amendment was defective, for it allowed no time for the European stockholders to come forward and avail themselves of the proposed exchange.

Mr. RHEA opposed the amendment at some length, but the position of the reporter would not enable him to hear, with sufficient distinctness, to do justice to his observations.

Mr. F. JOHNSON replied to the remarks of the gentlemen from Maryland, (Mr. SMITH,) and South Carolina, (Mr. McDUFFIE.) It was by no means his intention to cast any imputation upon the committee who reported the bill, and in relation to the observations of the gentleman from South Carolina, (Mr. McD.), he had said nothing whatever about the Army. He had voted for its reduction at the last session; and, with respect to the Navy, he was disposed to lop off such parts of it only as were an encumbrance to it. He did not wish to retard any of the operations of Government—but he was decidedly in favor of a just system of economy, and for examining into every department of the Government, and for reducing and lopping off every expenditure that can be done, without impairing the useful operations of the Government, and such a system, he said, would greatly accelerate its operations and advance its best interests. And he was opposed to the principle of putting a great load of debt upon posterity. He understood the gentleman (Mr. McDUFFIE) to say, that "we had fought and borne the brunt of war, and that posterity ought to be charged with the debt incurred by it—that it would be too much to require us to fight the battles and pay the debts too." If these were that gentleman's notions he differed very widely from him. He would ask what advantage would that liberty and independence be to posterity, which the victories of the present generation had sustained, if we load them with a public debt, which is to destroy the enjoyment of that liberty and independence? Direct taxation, he said, was the worst of evils in

a country situated as ours—the nation was not now capable of bearing a direct tax, nor could he tell when it would be. He thought we ought to keep a sharp lookout in peace, so as to pay off our debts incurred in war, and to avoid loans and direct taxes, and a system of strict economy would greatly aid us therein. This objection to the bill was reducible to these two grounds—1st, that it was not certain that money will be dearer then than now; and, 2dly, that it was not certain that we should be wholly incapable of reducing any part of the public debt.

Mr. TUCKER, of Virginia, was in favor both of the bill and of the amendment. It had been objected by the gentleman from Kentucky, that brokers would calculate the value of stock better than Congress, and that therefore no beneficial bargain of this sort could be made. But this he thought depended much on contingencies. If there should be war in Europe, the rate of interest will rise, and the value of stock will fall. Another event might also have an essential bearing upon the value of stock. He alluded to the recent recommendation to recognise the independence of the South American colonies. This would probably open new sources of trade and industry. It was also objected that we might have money on hand, lying idle, which might be applied to the extinguishment of the debt. To this he replied that it might be used to increase the Sinking Fund. The commissioners of that fund could employ it beneficially, and would then be able to purchase in the stock on advantageous terms, and, in the supposed change of the money market, it would have a double operation. He considered this as one of the most prudent measures that the nation could adopt, and the most fortunate conjunction that could occur for it. He was anxious that the bill and amendment should pass, and he thought it could be modified without injury, so as to include the European holders of the stock who might wish to avail themselves of the act.

Mr. BALDWIN considered both the bill and the amendment as highly important, and he was in favor of the principle of both. But it was material that the House should well understand it. The amendment had been just submitted, and he thought it was entitled to more deliberate consideration. He therefore moved that the Committee rise and report progress and ask leave to sit again. Which was agreed to.

In the House, the amendment, on motion of Mr. WOOD, was ordered to be printed, and, after granting leave to the Committee to sit again, the House adjourned.

THURSDAY, March 21.

Mr. SMITH, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act authorizing the payment of a sum of money to John Gooding and James Williams," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. SMITH, from the same committee, to which

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was also referred the bill from the Senate, entitled "An act for the relief of Jacob Babbitt," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom the subject was referred on the 20th instant, reported a bill in addition to the act, entitled "An act for the prompt settlement of public accounts;" which was read twice and ordered to lie on the table.

Mr. McLANE, from the Committee on Naval Affairs, reported a bill for the relief of Joseph Bainbridge; which bill was read twice and committed to a Committee of the Whole.

Mr. COOK from the Committee on the Public Lands, to whom was recommitted a bill for the relief of James McFarland, reported the same with two amendments, the first of which was concurred in; and some debate arose upon the second amendment, in which Mr. COOK supported, and Mr. COCKE opposed the same; when, on motion of the latter, the bill and amendments were ordered to lie on the table.

Mr. HILL moved that the House do come to the following resolution:

"Resolved, That the Library Committee be directed to inquire into the expediency of distributing the four volumes of the Secret Journal of Congress, and Journal of the Convention, to those members who belonged to the 16th Congress, and have not received them; and, also, to report on the propriety of distributing copies of the same books to the Athenæum, Antiquarian, Historical, and other learned institutions in the United States, together with the Journal of the Convention, the Fourth Census, Pitkin's and Seybert's Statistics, Wait's edition of State Papers, and the Commercial Regulations of Foreign Countries.

The resolution being read, the question was taken, Will the House now proceed to consider the same? And was determined in the negative.

Mr. MERCER moved that the House do come to the following resolution:

Resolved, That the Committee on the Public Buildings be instructed to inquire into the practicability of preparing, for the accommodation of the House of Representatives, the room in the centre building designed for the library.

The resolution was ordered to lie on the table.

The SPEAKER laid before the House a letter from the Postmaster General, stating the causes of the failures and delays of the mails between the City of Washington and Wheeling, in Virginia, and prescribing the means of preventing them in future; which was read and ordered to lie on the table.

An engrossed bill, entitled "An act to fix the limits of the port of entry and delivery for the port and district of Philadelphia," was read the third time, and passed.

On motion of Mr. MOORE, of Alabama, it was ordered that the bill concerning invalid pensioners, reported to this House on the 20th January, 1821, together with the petitions and papers of the persons therein mentioned, be committed to the Committee of the whole House to which is commit-

ted the bill concerning invalid pensioners, reported at the present session of Congress.

DISTRICT OF COLUMBIA.

Mr. KENT, from the Committee for the District of Columbia, to which was referred, on the 9th instant, a petition of sundry inhabitants of the said District, reported a bill to enable the inhabitants of the District of Columbia to form a frame of government; which was read twice, and committed to a Committee of the Whole.—The bill is as follows:

A Bill to enable the inhabitants of the District of Columbia to form a frame of government.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the inhabitants of the District of Columbia be, and they hereby are, authorized to hold a Convention, to determine whether it will be for their benefit to have the rights of self-government extended to them, so far as the same may constitutionally be done; and if they shall be of such opinion, to form a frame of government, to be submitted to Congress for their approbation.

SEC. 2. *And be it further enacted,* That the said Convention shall be composed of twelve representatives for the City of Washington, and that part of the county of Washington east of Rock Creek; of eight representatives for the town of Georgetown, and that part of the county west of Rock Creek; and of nine representatives from the town and county of Alexandria. The said representatives to be free white taxable males, inhabitants of said District, above the age of twenty-one years, who shall be chosen by ballot, by the free white taxable males, inhabitants of said District, above the age of twenty-one years, on the — day of — next, under the superintendence of such judges, at such place in each of the said towns, and subject to such other directions, as the President of the United States may prescribe.

SEC. 3. *And be it further enacted,* That the persons so chosen shall convene, in the City of Washington, at such place as shall be fixed by the President of the United States, on the — day of —, and shall organize themselves by the appointment of a presiding officer, and such other officers as may be necessary. A majority of the members shall constitute a quorum, and their proceedings shall be communicated to the President of the United States, to be by him laid before Congress at their next session.

EXCHANGE OF STOCKS.

The House then resumed the consideration of the unfinished business of yesterday, (the bill authorizing the Secretary of the Treasury to exchange certain stocks,)—the question being upon the amendment submitted yesterday by Mr. CAMBRELENG.

Mr. SMITH, of Maryland, opposed the amendment in a speech of considerable length. He examined its various provisions, and contended that it really held out fewer advantages than the first section of the bill in its present shape; and, among other observations, he remarked that it was calculated to depreciate the value of the stock, by giving advantages to American over European stockholders.

Mr. WOOD was in favor of the amendment.

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He thought it was conformable to the views which the Secretary of the Treasury had presented in his report, and he, Mr. W., was disposed to extend it, not only to thirty, but to thirty-six, millions; and he entered into a statistical examination of the subject to test the expediency of its adoption.

Mr. CAMBRELENG replied, and modified the resolution by adding to the amendment as follows: "*Provided*, That, in effecting the aforesaid exchange, the Secretary shall, in no case, give any premium."

Mr. WILLIAMSON remarked that the subject of finance, in all its parts, was already important, and equally difficult to be understood. One need to have clear views himself, and the attention of others, else his remarks on such a topic would be fruitless. This bill proposes the exchange, he observed, of twenty-six millions of six and seven per cent. of the loans of the United States, effected in 1812-13, payable in 1825-26, by a new stock to be created, bearing an interest of five per cent. payable in 1821-2-3. In this discussion four considerations present themselves to our view, and demand our decision:

1. Is it expedient to make the exchange?
2. For what amount, if any, shall the books be opened?
3. At what time shall they be opened and closed; and,
4. When shall the new stock, if any be created, become due? These are the four points to be considered.

In respect to the first, he thought it was expedient to make an exchange. In 1812-13, the United States were involved in a war with one of the most powerful nations upon earth. The demands and pressure on the Government were great; it must have had money; to procure which loans were opened, and the money procured at a rate per cent. interest which showed at that time the unfortunate condition of public credit. Of the loan at six and seven per cent. effected in 1812, he remarked, there will be due and redeemable, in 1825, upwards of seventeen and a-half millions of dollars; and of the loan effected in 1813, at six per cent., there will fall due and redeemable, in 1826, near twenty-two and a-half millions; so that upwards of forty millions are redeemable those two years. The first question is, Will this Government be able to meet and pay off that sum in 1825-6? He thought not. The Secretary of the Treasury, and others who have passed the revenue and expenditure under their view, think not. What, then, is the best provision which can be made in the premises? It is very truly stated, that the credit of the Government is now high—perhaps never higher. A promissory note, that is, the paper security of the Government of the United States is always more valuable, will sell quicker, and for a larger sum, as the length of time intervenes between the date and pay-day; because, as the interest is always paid quarterly, and as the capitalists do not want the trouble of often vesting their money, or exchanging the investment, provided it lies safe. Hence, at the

present moment, \$10,000 of Government paper, bearing five per cent. interest, and payable ten years hence, interest demandable quarterly, would now bring as many dollars in specie, and also a considerable premium. In 1812-13, Government security, at six, and at one moment, seven per cent only, would command the cash, though the day of pay was fixed at thirteen years then future. The reason was, money was commanding high interest; the credit of Government was low; changes great abroad, and we were compelled to borrow, and capitalists took the advantage. The tables are now turned; our credit is good—never better; and money, being plenty, commands only a low interest. It is said a stock at five per cent. interest, payable 1831-2-3, will bring in, by way of exchange, the demands of six per cent. against the United States, which are payable in 1825-6. Why not, then, make the exchange? It will be saving the difference of at least one per cent. on the sixes, and two on the sevens, for three or four years; and it cannot be safely calculated that our Government will be able to pay them off when they become due.

A second question is the amount. If a loan be opened for exchange, for what sum ought it to be? The bill proposes twelve millions of the loans of 1812 and '13, so as to embrace all that on which seven per cent. interest is payable, and so much of the loan bearing six per cent. as will, together with the former, amount to twelve millions; leaving due, to be paid by Government, during the year 1825, the residue of what will fall due that year, namely, about five millions and a half. Can this latter sum be paid those years, besides meeting the other charges on Government? The past and present state of the revenue does not prophecy such ability. We cannot do it. Gentlemen do hardly suppose it. Why not then open the exchange for the whole which will fall due that year, viz: about seventeen and a half millions, instead of twelve millions? If this reasoning be correct, then how will the Government be able, probably, to pay off twenty-two millions and near a half, which fall due in 1826? It would be remarkable to entertain calculations that we then may deal in the commodity of miracles. I would go in this exchange as high as the amendment proposes, which is thirty millions, and then about ten millions will be due those two years—quite as much of the public debt mentioned as we shall be able to meet.

Another and third question arises in this difficult business—When shall the books be opened, if opened at all? The bill proposes October, the amendment April. If the credit of the Government paper be, as stated, good, so high in market, why not embrace the present moment? Is it not the proper time? What advantage by delay? Mighty events, which are by many anticipated; changes in the mercantile world, always affect money matters. When the loans were effected, it was a season of extremes; the present is another, diametrically opposite. The gentleman from Maryland says, some of the sixes and sevens are owned in Europe, and a short time would not give them an equal chance to make the exchange. Such, if

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any there be, have, no doubt, their agents here, vested with discretion, and know full well what would be for the interests of their principals. Delays are dangerous, and, in this case, procrastination is the thief of time. In my humble opinion this exchange must be effected before autumn, or never.

One word, finally, on the fourth point proposed, as to the time when these five, if the books for exchange be opened, shall be payable? The bill, I believe, said Mr. W., has set the time at 1831-'32-'33, and these years may be the proper ones. If the time be fixed, and extended to a period too remote, perhaps the new stock ought to bring a premium; if within a limit too short, the exchange cannot be effected; and it is very difficult to prepare a data from which to draw any satisfactory conclusions. But, if long threes and fives are now as quick in market, and bring as great a premium as gentlemen have supposed, one might conclude these years would be the times which ought to be fixed in the bill. I am unequivocally in favor of the projected exchange, believing, as I do, that it will be promotive essentially of the interest of this Government.

Mr. TRACY was opposed to the amendment, because he was opposed to the principle of the bill. He thought it would be either inoperative, or the Government would lose by the project; for it was really a question whether the Government was more acute in bargaining than the stock-jobbers, and the expediency of the measure depended upon that point, concerning which he thought the House could not entertain a doubt. He believed the proposition would not be accepted; for, as it was of a voluntary character, it certainly would not be, unless the jobbers and brokers should find it for their interest to agree to it. Every man was to be trusted in his own art, and he thought it extremely impolitic for this Government to enter into competition with the keener brokers of Wall street. He also thought the effect of it might be to lull the people into a listlessness on the subject of the public debt, and virtually to authorize expenditures which we could not well bear, under the impression that the debt was indefinitely postponed, and that all things were going on well.

Mr. RICH proposed the following amendment:

"Strike out 'thirty' third line, and insert 'twenty-six' seventh line, to wit: For the seven per cent. stock, and for the six per cent. stock of the year 1812, to an amount not exceeding twelve millions of dollars; for the six per cent. stock of the year 1813, to an amount not exceeding fourteen millions of dollars."

Mr. CUTHBERT observed, that although, in the administration of our finances, the conversion of stocks was a matter of experiment, yet it was not so in other countries. Nothing was more common; nor did it follow, in such conversion, that the operation could not be made advantageously to both parties. Originally, stocks are taken up by money dealers; but in a Government whose credit is good, it usually gets into the hands of those who are prudent and cautious, and unwilling to enter into hazardous speculations, but are desirous of possessing a steady and certain income.

Hence it is not a competition between the Government and the jobbers, but recommends itself by the accommodation of persons who prefer a settled and certain income to a stock which will be shortly redeemed, though entitled to a higher rate of interest. Mr. C. was in favor of the amendment proposed by the gentleman from Vermont, (Mr. RICH,) for he was apprehensive that, without it, there would be so much brought into market as to destroy the competition.

Mr. RHEA entered at some length into the discussion, and was opposed to all the amendments proposed.

Mr. COOK was opposed to the principle of the bill. In the course of his remarks, he observed that it was better for the Government to create a new five per cent. stock, than to undertake to exchange it; for there would be a combination among the stockholders which would effectually defeat the purpose of the bill. The holders know full well that the Government will not be able to pay the debt when it becomes due, and will make their calculations accordingly.

Mr. TRIMBLE was opposed to the amendment as proposed by the gentleman from Vermont, (Mr. RICH,) because he preferred that which was originally proposed. He was not disposed, however, to admit, with the mover, (Mr. CAMBRELENG,) that there was danger of war from measures that the House would probably adopt in a few days, so as to affect the price of stocks. Mr. T. was inclined to believe there had been, or would be, such an increase of revenue as materially to reduce the public debt, and presented an extended view of the subject in detail, arriving at the conclusion that it would not realize the expectations that had been entertained. He stated that the annual revenue from the customs had generally been at about the ratio of one dollar and fifty cents to each individual in the country; and he thought there was no reason to expect a disproportionate increase hereafter. It would probably increase, only according to the increase of population. If, therefore, even the bill should pass, yet it would be found necessary to retrench, and he was satisfied that retrenchment might be made to the extent of a million of dollars, without any possible injury to the public service and safety. He thought the time was favorable, and he should vote for the bill, unless it should be shown that we could meet the debt without it.

Mr. BALDWIN remarked that this was the first time for many years in which Congress had gone into an examination of its financial concerns; and that subject must always be important which affects the credit of the Government. In order to establish it on a firm footing, it was desirable to establish it, as a maxim, always to redeem our debts, at the time when they are redeemable. A great question then was, whether and how far the debt could be met by the ordinary revenue of the Government; and he was disposed, from the best view he could take of the subject, to consider the proposition of the gentleman from New York (Mr. WOOD) to extend this bill to forty millions, as the better plan. As we had gone on for some years

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past, the Government has paid the interests of short stock, and the holder gets the benefit of long stock. The high price of our stock did not now depend so much on the great credit of our Government, as on the difference of exchange; and, although our revenue had increased, yet the debentures were stationary, and he could not view the state of our revenue in the same favorable point of view as the gentleman from Maryland (Mr. SMITH) seemed to consider it. We were now as prudent men looking over the state of our accounts; and if we can now, owing to the rate of exchange and the peculiar state of the money market, reduce the interest from six and seven per cent. to five, we ought to do it. He should not further press the amendment he had offered some days ago, to include the two millions; for the House had refused it, and taken the pledge of the chairman of the Committee of Ways and Means, that it would be paid—the one-half this year, and the residue the next. He begged that fact might be remembered, and he hoped the pledge would be redeemed. He concluded by expressing his approbation of the bill, for, he believed, the more the subject was examined, the more clearly it would be found that the revenue was not more than adequate to the current expenses of the Government.

Mr. RHEA made some further observations in opposition to the amendment; when the question was taken, and Mr. RICH's proposition was lost.

Mr. RICH moved to amend the amendment by inserting in the 7th line as follows:

And for the six per cent. stock of the years 1814 and 1815, to an amount not exceeding four millions of dollars.

After a few remarks in support of the amendment by the mover, and in opposition to it by Mr. CAMBRELENG, the question was taken, and the amendment negatived.

The question then recurred upon the original amendment of Mr. CAMBRELENG, which was also negatived—yeas 52, nays 78.

No further amendment having been offered, the second section of the bill was read, when

Mr. VAN WYCK moved to amend the same by adding the following, after the 40th line in the 2d section:

Provided, That, if the stockholders of the aforesaid six and seven per cent. stocks decline exchanging such stock for the five per cent. stocks, proposed in the bill, that it shall then be the duty of the Secretary of the Treasury, after the first day of January, 1823, to reopen the said subscription books, indiscriminately, to the citizens of the United States, which books shall remain open until after the 1st day of January, 1824, and from which proposals the best terms shall or may be accepted by the Secretary of the Treasury. And be it further provided, That no such stocks created, shall be subscribed for, transferred to, or owned by, a foreigner, in a foreign country.

The question was taken on the proviso, and negatived without a division.

Mr. MILNOR submitted the following amendment to the 2d section:

In line 19, strike out one and insert three.

In line 21, strike out two and insert six.

In line 33, strike out three and insert eight.

The amendment was supported at considerable length by the mover, and opposed by Mr. TUCKER of Virginia, and Mr. GORHAM; when the question was taken on the first branch of it and lost, and the residue was withdrawn by the mover, when the Committee rose and reported the bill to the House.

In the House, Mr. CAMBRELENG proposed to amend the first section, by striking out all that part of it which follows the enacting clause, comprising the same provisions with that which he had offered in Committee of the Whole, except reducing the sum from thirty to twenty-six millions, and directing the books to be opened from the first of May to the first of August.

Mr. BUCHANAN said, he felt it to be his duty to express his decided opinion in favor of the amendment of the gentleman from New York, (Mr. CAMBRELENG.) However unpromising might be its prospect of success, he was so firmly convinced it ought to succeed, he would briefly state his reasons for his opinion. The principle of the bill, said Mr. B., is unexceptionable. If we could pay the debt, when it shall become due, that would be the most politic course. This is admitted to be impossible, even by those who are the most sanguine in their calculations respecting the revenue. After the \$26,000,000 shall have been exchanged under the provision of this bill, the remainder of the war loans will be more than we will be able to pay as they become due. It therefore becomes a wise and prudent people to provide, in time, the means of keeping up the credit of the Government. We can now do this, and save, at the very least, an annual expenditure of interest of \$260,000 from the time when the bill shall go into operation. The question, however, now is, between the first section of the present bill and the proposed amendment. Mr. B. said he was in favor of the latter. The universal peace which followed the general war throughout Europe, had opened the avenues of trade to all nations. By that means much of the capital of our merchants had been driven from commerce, and was vested in the public funds. The price of money became cheap, because we had much more than was demanded to carry on our commerce. Trade has, however, been lately reviving, and the demand for money is becoming greater. Should we realize all the benefits from declaring the South American provinces independent, which we anticipate, and should other events transpire, which are at least probable, new channels of trade will be opened to our commercial enterprise. Delay upon this subject may therefore be dangerous. We have every reason to believe that the exchange could now be effected upon very advantageous terms—what will be the state of the money market by October next, it is impossible to foresee. The amendment contemplates that proposals shall be received by the Secretary of the Treasury from and after the first of May next; the original section, not until October. In this respect, Mr. B. thought the amendment preferable to the bill as it then stood. The chairman of the Committee of Ways and Means had thought the bill should not go into operation until

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the 1st of October next, that the foreign holders of stock might have an opportunity of taking advantage of its provisions. Mr. B. said, he could not perceive upon what principle we should endanger the success of the bill, by waiting until they might have an opportunity of subscribing. He also preferred the amendment for another reason. The five per cent. stock of the Government was now selling in the market at an advance higher, by between three and four per cent., than the six per cent. stocks redeemable in 1825 and 1826. The bill, as it at present stands, will give the benefit of this premium to the stockholders of the Government, at the public expense. Why should we extend these advantages to any description of men in the community? We should be just; it cannot be expected we will be generous to the public creditors; because, by acting in this manner, we injure our constituents. A premium of three per cent. on the \$26,000,000, proposed to be exchanged by this bill, would amount to \$780,000. I hope the House are not prepared to give this large sum, without any equivalent, to the holders of the public stock. The amendment can do no harm. The Secretary has no power to make a worse bargain, under its authority, than under that of the original bill; he may, however, and in all human probability will, make one that is much better. This bill, as it stands at present, presents a singular incongruity. The six per cent. stock, due in 1824 and in 1825, is placed on the same footing, and yet the one is clearly more valuable than the other. They must both be exchanged for five per cent. stock on the same terms, and it is out of the power of the Secretary to make a different bargain in the one case from the other. Mr. B. said he believed, if the amendment were adopted, it would be a clear saving to the country of between half a million and a million of dollars; and, under that impression, he would call for the yeas and nays, that his vote might be recorded in the affirmative.

The amendment was further supported, after a modification, at the suggestion of Mr. Cook, by Messrs. TUCKER of Virginia, and GORHAM, and opposed by Mr. RHEA, and Mr. SMITH of Maryland, when the question was taken and decided by yeas and nays in the affirmative—yeas 109, nays 38, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Allen of Tennessee, Baldwin, Barber of Connecticut, Barber of Ohio, Bateman, Baylies, Bigelow, Blackledge, Blair, Borland, Brown, Buchanan, Burrows, Cambreleng, Campbell of Ohio, Cannon, Cassedy, Chambers, Cocke, Conkling, Conner, Cook, Crafts, Cuthbert, Dane, Darlington, Edwards of Pennsylvania, Edwards of North Carolina, Farrelly, Findley, Garnett, Gebhard, Gorham, Gross, Hardin, Harvey, Hendricks, Hobart, Hooks, Hubbard, J. T. Johnson, J. S. Johnston, Keyes, Lathrop, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McCoy, McDuffie, McLane, McNeill, McSherry, Matlack, Matson, Mattocks, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pa., Morgan, Murray, Neale, Nelson of Massachusetts, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Reed of Maryland, Rich, Rogers, Ruggles, Russell, Sergeant, Sloan,

Arthur Smith, S. Smith, Alex. Smyth, Sterling of Connecticut, Sterling of New York, Stevenson, Stoddard, Swan, Swearingen, Taylor, Thompson, Tod, Tomlinson, Tucker of Virginia, Van Wyck, Walworth, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, Wood, and Worman.

NAYS—Messrs. Ball, Bassett, Bayly, Campbell of New York, Condict, Cushman, Denison, Durfee, Dwight, Eddy, Edwards of Connecticut, Eustis, Fuller, Gilmer, Gist, Hall, Hawks, Holcombe, Jackson, F. Johnson, Jones of Virginia, Jones of Tennessee, Kent, Kirkland, Moore of Alabama, Overstreet, Reed of Massachusetts, Rhea, Ross, Russ, Sanders, S. Smith, Spencer, Tatnall, Tucker of South Carolina, Vance, Woodcock, and Woodson.

Mr. CAMBRELENG proposed an amendment to the second section of the bill, so as to make it conform to the amendment which had just been adopted in relation to the first. The amendment was agreed to.

Mr. MILNOR renewed the motion he had made in the Committee of the Whole, and the three propositions it contained, being taken collectively, were carried—ayes 63, noes 58.

Mr. LOWNDES made some remarks upon the necessity of framing the bill in such a manner as to equalize the premiums of the loans to be made, but, as his health had not permitted him to prepare any amendment calculated for that object, and as he had not anticipated the result to which the House had arrived, he suggested to the chairman of the Committee of Ways and Means the propriety of moving to adjourn, that a proper provision might be introduced upon that important subject; and, thereupon, the House adjourned.

FRIDAY, March 22.

Mr. KENT, from the Committee for the District of Columbia, reported a bill to incorporate the inhabitants of Georgetown, and to repeal all other acts heretofore passed for that purpose; which was read twice, and committed to the Committee of the whole House to which is committed the bill to repeal part of an act passed by the State of Maryland in the year 1784, and now in force in Georgetown, entitled "An act for an addition to Georgetown in Montgomery county."

Mr. SERGEANT, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to amend the laws now in force, as to the issuing of original writs, and final process, in the circuit courts of the United States within the State of Tennessee," reported the same without amendment, and it was ordered to be read a third time to-morrow.

Mr. SERGEANT, from the same committee, to which was also referred the bill from the Senate, entitled "An act supplementary to an act, entitled 'An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile,'" reported the same with an amendment to the title thereof, viz: strike out the words "and town of Mobile;" which amendment was concurred in by the House, and it was

ordered that the said bill be read a third time to-morrow.

Mr. EUSTIS, from the Committee on Military Affairs, to whom the subject was referred, reported a joint resolution authorizing the delivery of rifles promised to Captain Aikin's volunteers at the siege of Plattsburg; which resolution was read twice, and committed to a Committee of the Whole.

A motion was made by Mr. WALKER, that the House do now proceed to consider the unfavorable report of the Committee of Ways and Means on the petition of Julia Plantou; and the question thereon being taken, it was determined in the negative.

On motion of Mr. HENDRICKS, the House agreed to consider the report of the Committee of the Whole, striking out the first and only section of the bill for the relief of Benjamin Freeland and John M. Jenkins.

A debate of considerable length ensued upon the question of concurrence with the Committee of the Whole in their report; in which the concurrence was opposed by Messrs. HENDRICKS, COOK, MALLARY, CHAMBERS, MOORE of Alabama, WALKER, and SLOAN, and supported by Messrs. RANKIN, HILL, CANNON, HARDIN, and TOMLINSON, and decided in the affirmative—ayes 65, noes 61, and, consequently, the bill was rejected.

The SPEAKER laid before the House a communication from the Treasury Department, on the subject-matter of the petition of George Simpson; which, on motion, was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act for the relief of Holden W. Prout, administrator on the estate of Joshua W. Prout, deceased;" and "An act for the relief of Andrew Mitchell;" in which bills they ask the concurrence of the House.

The SPEAKER laid before the House a report from the Secretary of the Treasury on the petition of George Simpson; which was read, and ordered to lie on the table.

EXCHANGE OF STOCKS.

The House again resumed the consideration of the unfinished business of yesterday, (the bill to authorize the exchange of certain stocks.)

Mr. LOWNDES, after some prefatory observations, submitted the following amendment, to be inserted after the words "United States," in the 22d line of the first section:

"Provided, always, That, where different terms may be offered for the exchange of the same stock, the Secretary of the Treasury shall allow to all the subscribers of the same stock terms equally favorable. And provided, also, That the Secretary of the Treasury shall accept only such amount of subscription under each loan as he may deem most conducive to the public interest; but he may afterwards admit, at any time before the next session of Congress, a further subscription, on the terms of the subscription before accepted, provided the whole amount shall not be more than twenty-six millions of dollars."

Mr. TRACY was apprehensive that this amendment would increase his principal objection to the bill, by giving greater effect to the combinations of those who hold the stock which it is proposed to exchange. He was also opposed to it on a ground which applied, perhaps, equally well to the bill itself—that this was nothing more nor less than a provisional loan of twenty-six millions; and he proceeded in an argument at considerable length, to show the inexpediency of such a loan. It was of greater amount than the Administration called for, and this amendment narrowed the field of competition.

Mr. LOWNDES made a small modification of his amendment, and replied briefly to the observations of the gentleman from New York, (Mr. TRACY,) and contended that the reverse of the position he (Mr. T.) had taken, relative to the combination of the stockholders, would result from adopting the amendment; and he contended that it would hold out an inducement to the holders of stock in every part of the Union to make a liberal bid to the Government.

Mr. WALWORTH made a few further remarks in opposition to the amendment; when

The question was taken thereon, and decided in the affirmative—ayes 65, noes 42.

On the question whether the bill should be engrossed for a third reading—

Mr. TOMLINSON rose and said, that, when this bill was presented to the consideration of the House, he was inclined to favor its passage, but, by an examination of the subject, he had arrived at the conclusion that it ought not to be adopted. His mind had been brought to this result, in consequence of the amendment adopted, on the motion of the honorable member from New York, (Mr. CAMBRELENG.) He had, he said, on a former day, assented to that amendment, but more mature reflection had convinced him of his error. Thus circumstanced, he deemed it his duty briefly to explain his views of this matter, and he hoped he should not be considered by the House as unnecessarily prolonging a discussion which had already occupied so much of its time. He said he had uniformly advocated the policy of extinguishing the debt of this country as speedily as possible, and had hoped to see the day when the United States should present the solitary example of a nation unencumbered with the public debt. Sir, said he, need you be told that such a nation will be secure in its institutions—will be powerful—will command the affections of its own citizens and the respect of the world?

Against the doctrine, that "a national debt is a national blessing," he had heretofore protested, and was not now prepared to give it his sanction. Such a debt might tend to render stable a despotic Government, because it enabled such a Government to derive that support from the interest of its subjects, which it could not expect from their affections. But in our Government it is otherwise. Founded upon the great and just principles of liberty and self-government, to its permanency the aid of a public debt is not necessary. The strong bonds of mutual attachment which now exist,

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and he trusted ever would exist among the people of the United States, would, he hoped, render perpetual that form of Government, whose benign influence was so universally felt and acknowledged.

In 1820, Mr. T. said, when the national debt was reduced to \$88,899,333 57, he thought he saw a reasonable prospect of its further reduction, but he was sorry to be compelled to say that he had been disappointed in that expectation, and that the debt had, on the first of January, 1822, risen to \$93,423,605 73, making, in the two years, an increase of \$4,524,272 16.

What is now proposed, said he, by the bill as amended? It is to effect a loan of \$26,000,000, payable, at the pleasure of the Government, in the years 1831, 1833, 1836, and 1838. He used the term *loan*, for that was the proper term. The operation proposed could be considered in no other light than a loan, for the purpose of discharging the debt which will be payable in 1825 and 1826; restricted, it was true, to stockholders, but not the less objectionable on that account. Why, asked he, will you make this early preparation to meet that portion of the debt? Why not postpone it until the debt shall become payable? Will it not then be in season to make provision for this payment in case your income should be inadequate to do it?

It is urged by the honorable member from Massachusetts (Mr. GORHAM) that the credit of the Government is now good, and it is prudent to carry that credit into market and now avail ourselves of it. But, sir, said Mr. T. what reason have you to apprehend that your credit will not be as high two years hence as now? Is there any thing in our political or commercial relations which justifies the belief that the credit of the Government will depreciate? On the contrary are not those relations such as to lead the mind most decidedly to a different result? The character of the nation abroad is elevated—the ability of the Government, to sustain itself against opposition from within, and assaults from without, has been fully and satisfactorily tested. The resources of the nation are known to be adequate to meet all its engagements. No stock deserves to be considered, and none is, in fact, considered more safe than that of the United States. Ask foreigners, well informed and candid, what they think of your credit, and, rely upon it, they will tell you that it is constantly appreciating and will continue to do so. Tell me not, then, that your stock will command a less premium in 1825, than it now does. Is it not probable that the price of stock will be enhanced? Should that event take place, it is arithmetically certain that you lose by the proposed exchange of stock. This will not be denied.

But, Mr. T. said, if it be admitted that the value of money shall not appreciate, or, in other words, the rate of interest continue as it now is, and the five per cent. stock command in 1825 the premium which is now given for it, it is demonstrable, that, by the proposed measure, the Government will sustain an actual loss. The five per cent. stock is now at nine per cent. above par, and the six per

cent. at an average of six per cent. above par. Now, if you secure to the Government the difference between the price of five per cent. and the six per cent. stock, which will be three per cent. and you save one per cent. interest, for about two years, as this bill is to go into operation near the close of the present year; then, the whole gain to the Government, by this operation, will be but five per cent. But should you wait until 1825, when the six and seven per cent. stock shall have become payable, those stocks, instead of being at six and nine per cent. above, will be at par; that is, the Government will then have a right, by the terms of the original loan, to compel the holders of those stocks to receive their pay, and to surrender their certificates. If your credit should then be as good as at present, and five per cent. stock command the premium which it now bears, the whole of that premium of nine per cent. will be gained by the Government, and a clear profit made to the nation of the difference between the premium thus secured, and the excess of interest paid for two years. The result then is, that, by deferring this loan until 1825, when your debt is payable, a clear profit will accrue to the Government, of at least four per cent. on \$26,000,000, amounting to more than one million of dollars. This, he said, was arithmetically certain, if the credit of the Government remained the same as at present. If, the value of money be either depreciated, or the same as it now is, in 1825, then the Government will certainly lose by adopting the present bill. This proposition seemed to him incontrovertible. Here then are two chances against you. In what event are you to gain? Only, in the very improbable one, that the price of five per cent. stock, in 1825, shall have experienced a considerable depression. What will produce this state of the money market, and thus increase the rate of interest? Why, say gentlemen, our foreign commerce is increasing, and becoming more extended and profitable. South America, too, it is said, is to be opened to us, with which we shall be enabled to carry on a very lucrative trade, and the surplus capital of the country will thus find employment. Let us not be too sanguine; these bright and cheering anticipations may not be realized; other nations may, and probably will, participate with us in these commercial advantages. Every commercial nation, said he, is making uncommon efforts to extend its commerce. But, is it, said Mr. T., true, that the rate of interest increases, in proportion to the commercial prosperity of a country? Does not a profitable commerce bring into the country a surplus capital which, from time to time, the owners may wish to invest in permanent and safe funds? Did the rate of interest increase in Holland, with the advancement of her commerce? It is not true, that when the commerce of that country was at its highest point of prosperity, the rate of interest was most depressed? Is not the same true of England, and every other distinguished commercial nation? But, said Mr. T., if the expectations of gentlemen be well founded, and commerce should give that employment to the capital of the country which is anticipated, will not the necessary and inevitable

result be, that the revenue of the country will be increased? A prosperous commerce will fill the Treasury. From the commencement of this Government to the present moment, has not experience shown, that the income of the nation has been graduated by its commerce? Does commerce flourish?—then your Treasury is replenished. Is it depressed?—the Treasury is in want of money. If then our commerce is to be so flourishing and extensive, as to absorb all the capital of the country, the Treasury will be furnished by the customs with the means of paying this debt. In any aspect, therefore, in which this subject can be viewed, it was inexpedient to adopt the plan of converting the present outstanding stock into stock irredeemable for periods so long as those fixed in the bill now under consideration.

Mr. T. said, he did not understand this subject very intimately, much less did he feel disposed to dictate a course to be pursued in relation to this subject; but it seemed to him that the mode most expedient for the Government was, to defer the whole matter until 1825, when the war loan of 1813 will be payable, and then, if no other mode could be devised for its discharge, to go into the market with a loan for such portion of that stock as the Government shall not then possess means to pay. Should this course be adopted, a fair competition would be afforded, not only to the holders of stock, as proposed by the present bill, but you would avail yourselves of the additional competition created by the capital which money lenders might wish to invest in stock. In my judgment, said he, this is the proper course for the Government—it is the fair and honorable course, and one which will preserve the Government from the imputation of stockjobbing, to which the amendment in its operation would render it liable. Mr. T. said, he was gratified to perceive, that, in the opinion which he had just expressed, he was supported by the Secretary of the Treasury, given to this House in his annual report, who might be considered as having some little knowledge on this subject, as well as the honorable gentleman, by whose amendment the only valuable feature of the bill had been destroyed.

Mr. T. referred to the report of the Secretary of the Treasury, for the purpose of showing, that, should such an exchange of stocks be deemed inexpedient or impracticable, “a saving of equal, if not greater extent, may be effected in the years 1825, 1826, 1827, and 1828, by borrowing, at the rate of 5 per cent. in the first and each successive year, a sum equal to the difference between the amount redeemable and that portion of the Sinking Fund applicable to its redemption; and thus a saving be secured to the extent of that difference by the latter process.” There is, said he, much wisdom in this plan. You borrow the money when you want it; you pay off your debt at par; and by going into the market with a loan of a small amount you will probably secure a high premium. But what does the amendment propose? To bring into the market \$26,000,000 of 5 per cent. stock at one time. Does not every one know that the effect of throwing into market such

an immense amount of stock, at a given period, would be to diminish the value of it? The amendment is indeed framed upon the idea that a premium is to be obtained on stock when there is \$26,000,000 in market. Sir, said he, this idea is perfectly fallacious, not to say visionary. The stockholders and brokers understand this matter; they know that by sending a large quantity of a given article into market you reduce its price; and depend upon it, sir, their conduct will be influenced by that knowledge.

But this is not the most objectionable feature of the bill, as amended. A general subscription of stock is authorized by that amendment, without designating the particular stock to be received. What is the consequence? What every man who examines the subject with the least attention cannot fail to understand. The stock which is the least valuable—the 6 per cent.—will be subscribed, and the 7 per cent. left unextinguished, and bearing interest until it shall become payable, and the Government be in possession of the necessary funds to discharge it.

In this, Mr. T. said, consisted the decided superiority of the bill reported by the Committee of Ways and Means over the amendment under consideration. The bill reported by that committee wisely requires that the \$8,606,355 27 of 7 per cent. stock shall be exchanged and extinguished. The amendment leaves it optional with the holders to subscribe that or any other stock. The 7 per cent. stock is at \$109, while the 6 per cent. is at \$106. Will the holders of stock then continue to hold their 6 per cent. and surrender the 7 per cent.? He did not believe the stockholders would be guilty of such folly. They understand plain arithmetic, and will by a very easy process arrive at the result, that, by surrendering the 7 per cent. in lieu of 6, they must inevitably lose 4 per cent. Will they do it? They are not apt to disregard their own interest; certainly they are not blind to it.

There were other views which might be taken of this subject, Mr. T. said, but that which he had attempted to present to the House would induce him to vote against the bill.

After Mr. TOMLINSON had concluded his remarks—

Mr. DWIGHT, of Massachusetts, rose and observed that he had on yesterday voted in favor of the amendments (postponing still further the redemption of the new stocks) which had been proposed by the gentleman from Pennsylvania, (Mr. MURKIN,) and which were adopted by the House. He now moved to reconsider that vote, and briefly stated the reasons which had induced him to change that opinion. He thought it was a sound rule in public as well as in private affairs to defer payment of debts no longer than necessity requires; and he had become satisfied that in 1831, 1832, and 1833, we should be able to pay off these debts, and he was therefore unwilling to extend them beyond those periods. There were but two reasons, he said, which had been or he thought could be urged in favor of the amendments of the gentleman from Pennsylvania—the first, that the re-

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sources of the Government would not enable them to redeem the stock to be created by the bill at an earlier period than 1838; the second was, that stock at 5 per cent., created according to the provisions of the original bill, redeemable in 1831, 1832, and 1833, would not acquire sufficient value in the market to induce the holders of the 6 and 7 per cent. stocks, redeemable in 1825 and 1826, to exchange such stocks for 5 per cents., redeemable at no later period than 1833. In regard to the first of these reasons, he would undertake to show that, so far from the Government being unable to redeem these stocks at an earlier period than 1838, there would be, upon the basis of the present revenue, more than the sum of \$9,000,000 in each of the years 1831, 1832, and 1833, disengaged from any other objects contemplated by the act of 1816, creating the Sinking Fund, and applicable to none of the objects of the Government, unless these stocks were (as he hoped they would be) made redeemable in those three years. Gentlemen, he said, by recurring to the annual report of the Secretary of the Treasury, would be enabled to see a calculation by which the whole of the national debt, except the 3 per cents. of thirteen millions and a quarter, would be redeemed in 1839, upon the basis of a sinking fund of 8,000,000, commencing in 1825. If this calculation were correct, he might assume that the whole debt would be paid in 1837, provided the above sinking fund should be made applicable to that object as early as 1823. But gentlemen, he said, had asked, from what sources a sinking fund of \$8,000,000 was to be obtained? He thought he could answer that question satisfactorily to every member of the House.

It was apparent, that, out of the revenue of the present year, the Government had appropriated to the extinguishment of the interest and principal of the public debt, the sum of	\$5,722,000
Add to this sum the probable balances in the Treasury at the end of each year, upon the basis of the present expenditure	1,000,000
And the sum which will be raised annually, by the correction of the duties	1,500,000
And the sum which will be, in 1824, disengaged from the payment of the deferred stock	600,000
And the sum which will, in 1827, be disengaged from the Navy appropriation	500,000
And you have the sum of	<u>\$9,322,000</u>

Here, then, he said, was a surplus of 9,322,000 over the proposed sinking fund of eight millions, which surplus would be more than sufficient to counterbalance the deduction to be made on account of the two last mentioned sums not being disengaged until 1824 and 1827. If, he said, he had shown, as he believed he had, incontrovertibly, that the Government would have surplus means to constitute a sinking fund of eight millions, applicable to the public debt, in each of the succeeding seventeen years, the first ground taken in favor of the amendment of the gentleman from Pennsylvania had failed entirely. He would detain the House but to say one word upon the second

ground, which he thought equally untenable. It would be seen by a recurrence to the prices of stocks, that our six per cents, created in 1812, redeemable in 1825, were worth 105 to 106, while the sixes of 1815, payable in the year 1828, were now worth 110 to 111, and that the five per cents, payable in 1830, were worth as much in the market as either the sixes or sevens proposed to be exchanged by the bill. There was, then, no necessity for going beyond the years 1831 and 1833, to effect the objects of the bill; and he hoped the House would agree to reconsider the vote, and subsequently to reject the amendment of the gentleman from Pennsylvania.

Mr. MERCER asked if it was in order to reconsider a proposition after it had been amended? and, if so, what would be the effect of such a reconsideration upon the amendment?

The SPEAKER decided that the motion to reconsider was in order.

Mr. CAMBRELENG opposed the reconsideration, and replied to the remarks of the gentleman from Connecticut, (Mr. TOMLINSON.)

The motion to reconsider was further supported by Mr. SMITH, of Maryland, Mr. LOWNDES, Mr. RHEA, and Mr. EUSTIS, and opposed by Mr. MILNOR and Mr. BUCHANAN; when the question was taken, and the motion of Mr. DWIGHT to reconsider was carried.

The amendments of Mr. MILNOR being then before the House *de novo*, the question was taken on the same collectively, and they were negatived.

Mr. COLDEN then moved to adjourn; which motion was lost.

Mr. WILLIAMS, of North Carolina, moved to reconsider the vote taken on yesterday, upon the amendment of the first section of the bill, as proposed by the gentleman from New York, (Mr. CAMBRELENG.) Mr. W. remarked that he should make no observations on the motion; and for his reasons he should refer to the remarks which had fallen from the gentlemen from Connecticut, (Mr. TOMLINSON,) in which he fully concurred.

The question was then taken thereon, and the motion to reconsider prevailed—ayes 77 noes 43.

Mr. MERCER moved to adjourn. Lost.

The main question on Mr. CAMBRELENG'S amendment being now before the House—

Mr. WALWORTH moved to strike out that part of it which had been added this morning as a proviso, on the motion of the gentleman from South Carolina, (Mr. LOWNDES.)

This motion was also negatived.

Several questions of order were then raised, as to the effect of the propositions, positively and relatively, as they now stood before the House; in which Messrs. WALWORTH, GORHAM, MERCER, RICH, LOWNDES, and CAMBRELENG, expressed their views on the subject.

Mr. COOK moved to reconsider the vote by which the House had negatived the motion of the gentleman from New York, (Mr. WALWORTH,) to strike out the amendment of the gentleman from South Carolina, (Mr. LOWNDES.)

The question being taken, the motion to reconsider was negatived.

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Mr. COOK moved to insert, after the word *Treasury*, in the first and nineteenth lines, respectively, the words, "under the superintendence of the President of the United States."

Mr. BASSETT opposed the motion; and the question being taken thereon, it was also negatived.

Mr. FARRELLY renewed his motion to adjourn; which was again lost.

The question then recurred on the original amendment, as proposed by Mr. CAMBRELENG, and amended on the motion of Mr. LOWNDES.

Mr. SERGEANT observed, that he would vote for the amendment, but against the bill altogether. He considered it in the light of a bet to be made between the United States on the one hand, and the stockholders on the other, as to what would be the state of things in the year 1825, in which the odds were in favor of the latter. It was putting our wisdom in money matters against all the collected wit of the United States, and in a case in which the Government was bound, and the creditors left free. It was therefore an unequal bargain, for we must judge now, and they have all the chance of the intervening period to aid their judgment. These calculations were their trade, but were not within the ordinary range of Congressional business; and he had a further objection to the bill, that it was imperfect without the amendment of the gentleman from New York, (Mr. CAMBRELENG,) and that amendment required the proviso of the gentleman from South Carolina, (Mr. LOWNDES,) and the whole involved the Secretary of the Treasury in a dilemma, in which it was not right to involve him, and from which no ordinary good fortune could enable him to escape.

The question was then taken on the amendment of Mr. CAMBRELENG, and negatived—yeas 36, nays 74.

The original bill, as reported by the Committee of Ways and Means, being now before the House—

Mr. CAMBRELENG moved to amend the same, by introducing his original amendment, in the form first proposed, without the proviso of the gentleman from South Carolina, (Mr. LOWNDES.)

Mr. RHEA moved the previous question, but the motion was not accorded by the House—ayes 52, noes 55.

Mr. F. JOHNSON moved to lay the bill and amendment on the table. This motion was also negatived—ayes 50, noes 68.

Mr. MOORE, of Alabama moved to adjourn—lost.

Mr. CAMBRELENG withdrew his amendment, whereupon—

Mr. McDUFFIE again proposed it.

Mr. DWIGHT submitted to the Chair whether it was in order.

The SPEAKER decided that the motion was in order.

Mr. MOORE, of Alabama, called for the yeas and nays—but the call was not sustained by the House.

Mr. RICH moved to amend the amendment by inserting in the sixth line, after the words "per annum," the words "the six per cent. stock of the year 1820 excepted."

This modification was assented to by the (now) mover.

Mr. RICH then further moved to amend the amendment by adding, as the second proviso, the following:

"And provided, also, That of the seven per cent. stock, and of the six per cent. stock of the year eighteen hundred and twelve, inclusive, no more than twelve millions of dollars shall be exchanged in the manner provided by this act."

The proviso was also accepted as a modification by Mr. McDUFFIE.

The question was then taken on the amendment, and negatived by a large majority.

The main question then recurred upon ordering the original bill to be engrossed for a third reading.

Mr. RICH called for the yeas and nays, which was refused, and after a few remarks by Mr. CHAMBERS, in opposition to the bill, the question was taken thereon, and the bill was rejected—yeas 61, nays 65. And then the House adjourned.

SATURDAY, March 23.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate entitled "An act for the relief of Samuel H. Walley and Henry G. Foster," made a report thereon, recommending the rejection of the said bill; and the bill was committed to a Committee of the Whole.

The House took up and proceeded to consider the report of the Committee of Claims, on the petition of James Randall and wife: whereupon the petitioner had leave to withdraw his petition, and accompanying documents.

On motion of Mr. MOORE, of Alabama, the Committee on the Public Lands were instructed to inquire into the expediency of providing for the fair and equitable adjustment of titles to lots in the town of Mobile; and titles to land derived from the Spanish and French authorities, which have not been embraced by any former law, situated in that part of Alabama called West Florida, and in the State of Mississippi, east of Pearl river.

On motion of Mr. VAN WYCK, the Committee on the Public Buildings were directed to consider and report what disposition had better be made of the paintings by Colonel Trumbull, authorized by Congress.

On motion of Mr. BATEMAN, the Committee on the Militia were instructed to inquire into the expediency of making further provision, by law, for the more equitable enrolment and faithful return of the militia of the United States.

An engrossed bill from the Senate to amend the laws now in force as to the issuing of original writs, and final process in the circuit courts of the United States, within the State of Tennessee, was read a third time and passed.

A bill from the Senate for the relief of Holden W. Prout, administrator of the estate of Joshua W. Prout, deceased, was twice read, and committed to the Committee of Claims.

A bill from the Senate for the relief of Andrew

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Mitchell was read twice and committed to the Committee of Ways and Means.

Mr. STERLING, of New York, moved for a reconsideration of the vote taken yesterday on the bill for the relief of Benjamin Freeland and John M. Jenkins, when the question was taken thereon and negatived—ayes 52, noes 65.

On motion of Mr. SERGEANT, the House agreed to consider the bill supplementary to an act for the better organization of the courts of the United States within the State of New York; when

Mr. WALWORTH moved to recommit the bill to the Committee on the Judiciary, with instructions so to amend the same as to provide for the establishment of a circuit court in the northern district of the State of New York.

Mr. SERGEANT made a few remarks in opposition; when

Mr. WALWORTH withdrew the motion to recommit with instructions, and proposed to recommit the bill generally; when, on further motion of Mr. SERGEANT, the bill was ordered to lie on the table.

An engrossed bill from the Senate, supplementary to an act entitled an act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, was read a third time.

Mr. RANKIN expressed his doubts of the propriety of passing the bill without further investigation, and concluded his remarks by moving to recommit it to the Committee of the Whole, which, at the suggestion of Mr. CONDICT, he modified by moving that the reference be made to the Committee on the Public Lands.

The motion was further supported by Mr. BUTLER, and opposed by Mr. J. S. JOHNSTON, Mr. SERGEANT, and Mr. COOK, when the question was taken thereon, and the motion negatived.

On the final passage of the bill, it was opposed by Mr. BUTLER and Mr. WILLIAMSON, and, the question being taken thereon, the bill was passed.

EXCHANGE OF STOCKS.

Mr. BAYLIES moved to reconsider the vote taken yesterday upon the bill authorizing the Secretary of the Treasury to exchange stocks bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent. He remarked that the bill had been prepared with great care and attention, and after much reflection by the chairman of the Committee of Ways and Means. It had been decided upon, when nearly fifty members were absent, and he thought it but fair that it should be reconsidered.

Mr. COOK observed that there were fewer members now in the House than at the time the vote was taken; he therefore moved that the motion be laid on the table.

The SPEAKER decided that the motion of the gentleman from Illinois (Mr. COOK) was not in order, as the motion to lay on the table applied only to primary propositions.

Mr. HARDIN thought the object of the gentleman from Illinois might be obtained, by reconsidering and then laying it on the table, and giving

it a final disposition when the House should be more full.

The question was then taken, and the motion to reconsider prevailed—ayes 65, noes 61.

Mr. RICH moved that the subject be postponed for further consideration until Tuesday next.

On this motion, a debate of some length took place, in which Messrs. J. T. JOHNSON, CONDICT, TOMLINSON, RHEA, HARDIN, and RICH, took part.

Mr. HARDIN moved to amend the motion by substituting Monday week for Tuesday next; but the motion was negatived.

The question on Mr. RICH's motion was then put and carried—ayes 77.

ALTERATION OF THE HALL.

Mr. MERCER then called for the consideration of a resolution he had some days since submitted, relative to the practicability of preparing a room in the centre building for the accommodation of the House.

Mr. M. advocated the expediency of adopting the resolution, and was followed by Mr. SMITH, of Maryland, on the same side, when

Mr. TAYLOR proposed to modify the resolution of the gentleman from Virginia (Mr. MERCER) in a manner which he hoped and presumed would meet his assent. The modification was as follows:

Resolved, That the canvass covering the Hall of the House of Representatives be removed, under the direction of the Speaker.

Mr. WOODSON was about to make some observations on the subject, when the SPEAKER reminded the House that the period had arrived in which it was no longer compatible, with the rule recently adopted, to continue the debate on the resolution, the hour having passed.

Mr. WILLIAMS, of North Carolina, moved that the resolution and proposed modification be laid on the table.

The question was taken thereon and lost; and the SPEAKER decided that the question, (it being past 12 o'clock,) was now from before the House, and a discussion took place upon an appeal by Mr. MERCER on a point of order, in which the mover and Messrs. RICH, WOOD, RHEA, WILLIAMS of North Carolina, SMITH of Maryland, SMYTH, EDWARDS of North Carolina, and ARCHER, took part, when the decision was narrowed and the appeal withdrawn.

ORDERS OF THE DAY.

The House then resolved itself into a Committee of the Whole on the report of the Committee on the Post Office and Post Roads in the case of Lemuel Fitch.

The report was unfavorable to the prayer of the petitioner, which was for exoneration from his liability as a surety for Ivory Holland, a postmaster at Richfield, in the State of New York.

Mr. HAWKS moved to amend the report by inserting the word "not," so as to grant the prayer of the petition; but the motion was negatived by a large majority.

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No further amendment having been offered, the Committee rose and reported the same to the House, where the report of the Committee on the Post Office and Post Roads was concurred in.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of James May and the legal representatives of William Macomb, deceased, of Detroit, and on the bill for the relief of John Anderson, when the Committee rose and reported the same severally to the House without amendment, where the reports were concurred in, and the said bills were respectively ordered to be engrossed for a third reading.

The House then went into a Committee of the Whole on a bill for the relief of Gad Worthington, a bill for the relief of Solomon Porter, jr., and a bill to remit the duties on a sword imported for Commodore Macdonough, and reported the same to the House without amendment, where the said reports were respectively concurred in, and the bills were ordered to be engrossed for a third reading.

The House then resolved itself a Committee of the Whole, on the bill from the Senate to authorize the State of Illinois to open a canal through the public lands, to connect the waters of Lake Michigan and Illinois river; also, on the bill to provide for the examination of titles to lands lying between Rio Hondo and the Sabine river, in the consideration of which a discussion arose on a proposition to amend the bill so as not to require the opinion of the register and receiver on the validity of the titles, but to authorize and require them to collect the testimony thereto; in which discussion Messrs. HARDIN, J. S. JOHNSTON, RANKIN, and COOK, took part. The amendment was finally withdrawn, and

Mr. HARDIN moved to insert in the 27th line, after the word "emanated," the following:

"And it shall be the duty of the said register and receiver to procure, receive, and record, all evidences of fraud, or all other evidences which can be obtained going to show that the claim set up is unfounded and ought not to be confirmed."

The amendment was adopted; also, on the bill to authorize the State of Illinois to open a canal, &c., (being of similar import with that acted upon, which came from the Senate,) the Committee reported the first to the House without, and the second with, an amendment, and on the third, to sit again.

In the House, the report of the Committee of the Whole on the bill from the Senate to authorize the State of Illinois to open a canal, &c., was concurred in, and ordered to be engrossed for a third reading; and, after a brief discussion, the report of the Committee of the Whole (with the amendment) on the bill relative to the examination of titles to land between the Hondo and Sabine rivers, the same was ordered to be laid on the table; and the House refused to grant leave to sit again to the Committee of the Whole on the bill (originating in the House of Representatives) to authorize the State of Illinois to open a canal, &c., the object of the bill being contained in that

which had been concurred in from the Senate. And then the House adjourned.

MONDAY, March 25.

Mr. SMITH, of Maryland, presented a memorial of James H. McCulloch, collector of the customs for the port of Baltimore, complaining of the uncertainty in the laws providing compensation for the officers of the courts of the United States, and of the various constructions given thereto, and praying that the compensation of said officers may be more precisely and definitely fixed in relation to seizures under the revenue laws of the United States.—Referred to the Committee on the Judiciary.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Samuel Walker," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. WILLIAMS, from the same committee, to which was referred the bill from the Senate, entitled "An act for the relief of Matthew McNair," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. McLANE, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "An act for the relief of James H. Clark," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, made a report, accompanied by a bill making appropriations for said buildings; which bill was read twice, and committed to the Committee of the whole House, to which is committed the bill making appropriations for the support of Government for the year 1822.

The House took up, and proceeded to consider, the report of the Committee of Claims on the petition of Nathan Ford; whereupon it was ordered that the said report be committed to a Committee of the whole House to-morrow.

The House took up, and proceeded to consider, the report of the Committee of Ways and Means on the petition of Jonathan S. Smith; whereupon it was ordered that the said report be committed to a Committee of the whole House to-morrow.

The bill from the Senate, entitled "An act authorizing the State of Illinois to open a canal through the public lands to connect the Illinois river and Lake Michigan," was read the third time, and passed.

The bill to authorize the State of Illinois to open a canal through the public lands, to connect the waters of Lake Michigan with the Illinois river; the bill for the relief of James May and the representatives of William Macomb; the bill for the relief of Gad Worthington; the bill for the relief of Solomon Porter, jr.; the bill to remit the duties on a sword imported to be presented to Com. T. Macdonough; and the bill for the relief of John Anderson, were respectively read a third time, passed, and sent to the Senate.

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Revolutionary Pension Bill.

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On motion of Mr. VAN WYCK, the Committee on the Public Buildings were instructed to inquire into the expediency of abolishing the office of Commissioner of the Public Buildings; and also the expediency of transferring the duties of that office to the Engineer Department.

The SPEAKER then stated the next business in order to be the resolution heretofore submitted by Mr. MERCER, with the modification proposed by Mr. TAYLOR, which had occupied the attention of the House on Saturday, and the further consideration of which had been suspended. The SPEAKER remarked that his first impression had been that, by the rule of the House, the resolution was no longer before them, and could be revived only by being proposed anew. But from further reflection, and having understood that the committee who reported the rule did not contemplate its being placed from before the House, he was inclined to consider it as unfinished business; and he was the more satisfied with this construction (although it was a new case) from the consideration that the rule was intended to further the convenience of the House, and it would be more convenient in its practical operation to regard it as the unfinished business of the morning, than as being laid upon the table.

A division of the question was called for by Mr. SAWYER, when the modification was adopted, and the original resolution negatived.

Mr. REID submitted the following resolution:

Resolved, That the Committee on the Public Buildings be instructed to inquire into the expediency of substituting a glass ceiling for the canvass now covering the Hall.

After a few remarks on the subject by Messrs. REID, MERCER, and WALWORTH, at the suggestion of Mr. WHIPPLE, and with the assent of the mover, the resolution was ordered to lie on the table.

FLYING MACHINE.

Among the petitions this day presented was the following by Mr. MILNOR:

"James Bennett, a mathematician of the city of Philadelphia, to the honorable the Senate and House of Representatives of the United States of America in Congress assembled, most respectfully sheweth:

"That your petitioner having invented a machine by which a man can fly through the air—can soar to any height—steer in any direction—can start from any place, and alight without risk of injury; and whereas a like machine has never been invented in any country or age of the world, so as to be applied to purposes of practical utility, and as it is more than probable that artificial flying would not, for a thousand years to come, be brought to the same degree of perfection, had not your petitioner, under Providence, accomplished it; and, as it must be evident to all that *Letters Patent* would be of little use to the inventor in consequence of various modifications or improvements which might be made, and which never would have been thought of, had not the way first been opened by your petitioner: He therefore solicits a special act of the Congress of the United States, to secure to him and his heirs for the term of forty years, or for such other term as in their wisdom may be deemed just, the right of steering flying machines through that

portion of earth's atmosphere which presses on the United States, or so far as their jurisdiction may extend.

"By granting your petitioner's request, the honor of the invention shall be conferred on the United States.

"J. BENNETT, A. and M.

"PHILADELPHIA, Feb. 13, 1822."

Mr. MILNOR moved to refer the petition to the Committee on the Judiciary.

Mr. SERGEANT opposed the motion. He said that that committee did not undertake to soar into regions so high. Their duties were nearer the earth. He moved to lay it on the table.—Negatived.

Mr. WALWORTH moved to refer it to the Committee on Roads and Canals.—Negatived.

The question then recurred upon referring it to the Committee on the Judiciary, which was resisted by Mr. SERGEANT, on the ground not only that it was above their reach, but also that they had so much business before them of a terrestrial character, that they could not devote their time to philosophical and aerial investigation.

The motion was lost; when Mr. LITTLE renewed the motion to lay it on the table.—Carried.

REVOLUTIONARY PENSION BILL.

The House then resolved itself into a Committee of the Whole, on the bill supplementary to the act to provide for persons engaged in the land and naval service of the United States in the Revolutionary war.

Mr. KEYES submitted the following amendment to the first section: "and in all cases he shall be considered unable to support himself if he is over the age of sixty-five years, and his property does not exceed one hundred dollars."

Mr. KEYES observed that this was a bill supplementary to two acts passed by Congress. The first was passed March 18, 1818, which was favorable to a certain proportion of the American Revolutionary Army. The other act of Congress, which was in addition to the act of 1818, was passed May 1, 1820, and in my opinion, said Mr. K., it had torn out a part of the bowels of the act of 1818; for it gave one man authority to drop from the pension roll as many men as he should please—and it had been his pleasure to drop from the pension roll, in pursuance of said act, more of the old soldiers than the British, and their allies, the Hessians and Indians, ever slew in any one battle during the Revolutionary war. And the striking off of the pension roll, is the cause of so many prayers and petitions being presented to this Congress from the old heroes—stating that they were wrongfully struck off the pension roll, and now begging Congress to restore them to said roll again; and I ask Congress, said Mr. K., what will you do with these old worthies? Time is short—I mean it is short with the remnant of that Revolutionary Army. Mr. Chairman, let us make a calculation. Many of that Army, in the year 1775, were rising of sixty years of age forty-seven years ago. That would make this class of soldiers one hundred and seven years old. Where

are they, Mr. Chairman? They are all in their graves. No pensions are needed for this class of soldiers. But, sir, generally speaking, that Army were from the age of forty-five to eighteen years of age. Take forty-five and add forty-seven years, since the commencement of that war, and it would make that class ninety-two years old at the present time. I ask where are they? They likewise are all in their graves, or nearly all. You will not have any pensions to give them, or, if any, but few. We will now speak of the youngest class, or nearly so—eighteen at the commencement of the war, forty-seven since, will make that class sixty-five. This class is in the evening of their days, and will you not afford them a little relief? Mr. Chairman, I was one of those American Revolutionary *rebels*, as the British were pleased to call us, when we fought under the authority of the thirteen colonies, and I well remember the cold and hunger, the fatigue and slaughter which that Army had to meet with. Yes, Mr. Chairman, that Revolutionary Army, under the confederated States, underwent every thing but death, in defending their country from the oppression and tyranny of their mother country, and thousands and thousands of them were slain in that bloody and awful conflict. These old heroes were undoubtedly the bravest men that the world ever produced, ever since David fought Goliath, the Lion, and the Bear. And how, Mr. Chairman, were these worthy soldiers paid for the great services they had rendered their country? I answer, they were paid in rags, made into Continental bills, which bills represented gold and silver. But these bills were never redeemed, therefore the soldiers were never paid according to contract. But these old heroes, after they had spent the glory of their days in defending the liberties of their country, sat down easy and contented. No murmuring—no complaint was heard from them. No prayers—no petitions were presented by them to Congress to give them pensions; and so the old heroes would have remained in their poverty until death, had not the Congress in March, 1818, of their own free will and accord, unsolicited by the indigent soldier, passed a generous law, inviting the soldier and sailor who were poor and needy, to come and take a pension for life. Congress pointed out the road for them to come; and what, said Mr. K., were the requirements of Congress in that bill? I answer, the applicant was to make a declaration under oath, before a United States judge, or one of the judges of the State, Territory, or county, where the applicant resided, stating his reduced circumstances, and need of his country's help—the time he engaged in the United States service—the company, regiment, and the line of the Army he served in, the time and manner of his discharge from the Army, and what other proof was in his power to make; and when he had thus sworn under oath before the said judge, and made what other proof he could—if the judge was of the opinion he had served against the common enemy, according to the requirements of the act, and was in such reduced circumstances as to need the assistance of his country, the judge

was to transmit the testimony in the case, and the proceedings had thereon, to the Secretary of the Department of War, and if he was satisfied that the soldier or sailor comes under the provisions of said act, it was his duty to put him on the pension roll. And was this all, Mr. Chairman? No—there was a clause in the act which provided that, if any applicant gave false testimony in his declaration, he should be liable to indictment for wilful and corrupt perjury. And now I ask every lawyer in this Congress the question, whether there was any other legal way to have dropped any soldier from the pension roll, except to first convict him of wilful and corrupt perjury? And I am fully persuaded that every lawyer of good understanding will join me in the opinion that there was not any other legal way to drop any off of the pension roll.

Sir, I will also ask every farmer, merchant, or mechanic, in this Congress, if there was any other equitable way of dropping off these heroes from the said roll? And I think I may say they will agree with me. No, Mr. Chairman, the act of 18th March, 1818, brought rising of eighteen thousand of the remnant of that Revolutionary Army upon the pension roll; and who was to blame? The old worthy heroes were invited to come—and after they had taken a little refreshment of their country's bounty, they state they were wrongfully dropped off the pension roll, whilst others, under as good circumstances, were retained—and I submit it to Congress whether it is not cruel to feed a few of these old heroes, and starve the rest, or leave it for their poor children to support them, or for the towns where they reside, to be at this expense. I would rather repeal the act which invited the old soldiers to come and take a pension, and let them all starve together, than to feed a part, and let the other part stand, and look on, and suffer. But, Mr. Chairman, you have put your Secretary of War into an awkward situation, and extremely difficult it must be for him to do justice in this pension business, to the poor old worthy heroes; his living at such great distance from them, and not knowing their individual wants and inability to provide for themselves, and his having to apply to the Attorney General for his opinion was never intended, I presume, by the act. I therefore, for the benefit of the Secretary of War, and for the sake of giving relief to the poorest class of old soldiers, have thought best to propose an amendment to this bill, that is to say, in all cases where the old soldier is over the age of sixty-five years, and his property does not exceed one hundred dollars, he shall be considered unable to support himself.

Mr. Chairman, I am opposed to long speeches, and great waste of time, and will leave much for others to speak—and will only say, if there are any of those old Revolutionary soldiers in Congress who know by experience the fatigues, dangers, and hardships, which the Revolutionary Army had to endure fighting for independence, I hope they will speak, and let the young men of Congress know by word of mouth, the suffering of the old heroes of the aforesaid war; for the

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young men who have been born since the beginning of the Revolution, know but little or nothing about it, only by reading the history; and reading will give but little information, compared with enduring the hardships of war.

Mr. MONTGOMERY made some observations in favor of the general provisions of the bill, and announced his intention to submit the following proviso:

Provided, However, that no person shall be restored to the pension list, whose estate, clear of all encumbrance, shall be of the value of three hundred dollars or more: And provided further, That the evidence already submitted shall be deemed competent, and to authorize such restoration.

Mr. KEYES withdrew his amendment to give way for the proviso of the gentleman from Kentucky (Mr. MONTGOMERY) which was thereby in order.

Mr. COCKE had hoped this bill would be suffered to pass, without any amendments or modifications to obstruct it. The Secretary of War, he observed, was left to judge of the merits of the respective applicants, according to their circumstances, and he thought this was a far preferable provision to that proposed in the amendment.

Mr. FARRELLY remarked that it was impossible to do adequate justice by any general and uniform rule, and, therefore, it was much better to confide the matter to the discretion of the Secretary, who can adapt the extent of the relief to the necessity that requires it.

Mr. MONTGOMERY replied, and suggested to try the principle of the proviso, by erasing the words "three hundred dollars," so as to read it in blank.

Mr. WOODCOCK opposed the amendment, and, among other remarks, observed that he had rather leave the discretion proposed to the officers of the Government, than to hold out inducements to the old soldiers to reduce their property to a sum so small as to obtain the relief contemplated by the act, and he thought the bill was sufficiently guarded to attain the benefits which it was intended to confer.

Mr. KEYES made some further observations in support of the proviso.

Mr. REED, of Massachusetts, opposed it, and expressed his apprehension that, if the gentlemen from Vermont and Kentucky (Messrs. KEYES and MONTGOMERY) persisted in the amendment, they would defeat the bill, and he proceeded at some length in support of the bill as originally reported.

After further remarks by Messrs. MONTGOMERY, COCKE, and FARRELLY, the blank was proposed, by the mover of the proviso, to be filled with the sum of two hundred and fifty dollars; and the question being taken on the proviso as amended, the same was negatived.

Mr. ALEXANDER, of Virginia, said, in order to try the sense of the House as to the principle of the bill, he would move to strike out the first section, which was extremely obnoxious to him. He was not so much opposed to the second, which resulted from the necessity of the case; but rather than gain that at the expense of the other, he

would be willing to give up the whole. He must confess his surprise to find his friend from Tennessee (Mr. COCKE) among the advocates of this bill, who had at all times evinced such a disposition to economize every department, and to bring the expenditure within the means of the Government. It was not so surprising to find a support elsewhere, when he recollected, at a former period, that every effort was made to destroy the provisions of the last act upon the subject, which, however reluctantly, gentlemen are obliged to admit have been extremely salutary. No one ever thought, under the original act, we should be compelled to appropriate three millions of dollars to carry it into effect. And no one can take upon himself to say—not even the gentleman from Tennessee—if the bill passes in its present shape, that we shall not be called upon to add five hundred thousand or a million to the present fund for this purpose. These contingencies, like some others, will be presented at a time when we are least prepared to meet the demand, and will have to be put down under the head of deficiencies. And I do deem it of some consequence to know what will be the probable estimate, if gentlemen are determined to entail this system upon the nation. The amount, however, out of the question, and I am opposed to the bill in principle.

Gentlemen may call it by what name they please, it is little else than the original act itself, liable to the same system of fraud, perjury, and corruption, which have heretofore been practised upon the Government. For, sir, what is the character of it? It provides that "in all cases where persons are stricken from the pension roll, and they are afterwards from any cause so reduced in circumstances as to be incapable of supporting themselves, they may be permitted to come in and take advantage of the act passed in 1820." And, my word for it, there will be scarcely one who will not bring himself within the rule; for we know how easy a matter it is for an individual, if you prescribe to him the nature of the evidence required, to make out his case. It is in fact an invitation—nay, an encouragement—to those who, with a proper share of industry and exertion, are capable of supporting themselves and family, to get rid of the little property which they have as an encumbrance, by putting it to hazard in dissipation or any other way, provided it does not appear to be done with a fraudulent intent; and (as the ingenuity of man is always capable of the task) well knowing that, let the worst happen, they can here take the benefit of the insolvent act, by which they will be placed in a more solvent condition.

I do not say that it will be the case with all of them, but that it will with the greater part there is every reason to believe, notwithstanding your oaths, your schedules, and every thing besides; particularly when we have been told that an individual who once claimed the honor of a seat on this floor, and it is presumed stood well in the confidence of the people, felt no scruples upon this subject. And with such high examples before

their eyes, is it at all wonderful that they who move in a much humbler sphere should equally disregard the solemnity and obligation of an oath?

I do not mean to disparage the claim of the Revolutionary soldier, but, as my honorable colleague (Mr. RANDOLPH) very properly remarked on a former occasion, it is disparaged by the very act itself. For you know, sir, it is one thing to face your enemy, and another to turn your back upon him; and no one will pretend to say, that these are equally deserving the affections of the American people.

Gentlemen tell us that the Revolutionary soldier is fast hastening to his home; and the one who spoke first in this debate (Mr. KEYES) undertook to prove—what is reduced to almost arithmetical certainty—that the first enlistment is fairly off the stage, and the last well turned of sixty, and a few more days will light their “way to dusty death.” Yes, sir, *labitur et labetur* is applied to the progress of time, and I wish it may not with some propriety be applied to the Revolutionary course of the soldiers; for in truth, from the evidence before us, they put me very much in mind of the buckram gentry, who, instead of diminishing, multiply in a geometrical ratio. The system, sir, is wrong in itself; and the more it is attempted to be mended, the worse it is for the nation.

Mr. WHIPPLE regretted that a bill of this sort should have occasioned debate, but he thought the gentleman last up had mistaken the object of the bill. Its only purpose was to restore the law to the situation in which it stood, prior to the decision of the Attorney General on the subject; and he extended his remarks in favor of retaining the first section.

Mr. COCKE explained at some length the views of the committee in reporting the bill, and, after further remarks by Messrs. SMITH, of Maryland, WHIPPLE, REID, and WALWORTH, the question was taken on Mr. A.’s motion, and negative.

Mr. WALKER moved to amend the second section so as to extend the provisions of the section to justices of the peace, but the amendment was negative.

Mr. WHIPPLE moved to strike out all the part of the third section which follows the word “enacted,” and to insert in lieu thereof the words:

“That pensions granted upon schedules made subsequent to the passing of this act, shall commence from the time such schedules shall be filed in court.”

The amendment underwent some discussion, in which the mover and Mr. SMITH, of Maryland, took part, when,

Mr. COOK proposed to amend the amendment of the gentleman from New Hampshire (Mr. WHIPPLE) by adding thereto, as a proviso, the 3d section as originally reported in the bill. The question being taken thereon, the motion was lost.

Mr. RICH then submitted the following amendment:

“Provided, That any pension which shall be granted in conformity with the provisions of this act, and upon evidence heretofore exhibited, shall commence from the fourth day of March, eighteen hundred and twenty-two.

After a few remarks on this motion by the mover, the question was taken thereon and lost; when the original proposition of the gentleman from New Hampshire (Mr. WHIPPLE) recurred, and a decision being had thereon, it was negative.

Mr. REED then proposed an amendment, the purport of which was to limit the beginning of the pensions to the passage of the act.

A discussion ensued thereon, in which the mover, Mr. SMITH, of Maryland, and Mr. TRACY participated; but, before a decision,

Mr. FARRELLY moved that the Committee rise and report, which was refused.

The subject was further discussed by Mr. FARRELLY and Mr. COCKE; when the question was put, and carried in the affirmative.

Mr. COCKE moved to amend the first section by inserting, after the word “pensioners,” in the 13th line, the words “shall have heretofore furnished, or hereafter shall furnish,” &c.; when the question was taken, and the amendment was adopted.

Mr. HENDRICKS moved to amend the bill by adding thereto, as a second section, the following:

“And be it further enacted, That the Secretary of War shall be authorized to place on the pension list such applicants (being in all other respects embraced by the existing laws) as were rendered incapable of active service for the term, or part of the term of their enlistment, by reason of wounds or disabilities received while in the line of their duty.”

The amendment was supported by the mover; when the question was taken thereon and negative.

Mr. CUSHMAN proposed the following as an additional section:

“And be it further enacted, That every officer and soldier of the Revolutionary army, not embraced by the provisions of the pension act of 1818, who engaged or enlisted for three years or during the war, prior to the year 1780, and served out the time for which he engaged, or was honorably discharged, shall be entitled to receive, if an officer, — dollars, and if a non-commissioned officer, musician, or private soldier, — dollars, per month, during his natural life.

In support of this amendment—

Mr. CUSHMAN said, the object of the amendment was to extend the bounty and justice of the nation to that portion of the Revolutionary army which he considered the most deserving. This portion, he said, engaged in the war without bounty, and served *virtually* without pay. It endured the greatest hardships, fought the battles for liberty, and achieved the independence of the country. He would not pretend to do it justice by any praise he could bestow. It might suffice to say, that no army ever deserved better of any country; none under circumstances so discouraging ever performed more glorious achievements; none ever better supported the character of a patriot army. But I repeat, said Mr. C., that I will not expatiate on the merits of the Revolutionary army. Its prowess, its fortitude, and its exploits, are recorded in history and applauded by the civilized world. These speak more forcibly in its behalf than the most finished eulogiums.

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The amendment was opposed by Mr. COCKE and Mr. RHEA, and lost.

Mr. WALKER submitted, as a further section, the following :

"And be it further enacted, That when any applicant, whose name does not appear on the rolls of the State in which he enlisted, establishes by his own oath, accompanied with other corresponding circumstances, to the satisfaction of the Secretary of War, that he did serve faithfully nine months or more, during the Revolutionary war, he shall be placed on the pension list: Provided, however, That the judge or other officer before whom the evidence is taken shall certify, that, from the moral character of the applicant, no doubts exist of the truth of his declaration."

The amendment was supported by the mover, and lost.

Mr. CANNON then submitted, as a further section, the following :

"And be it further enacted, That all those who have performed nine months' service on one or more tour or tours of duty in the militia or volunteer service during the Revolutionary war, shall also be entitled to the benefit of this act, and also the acts to which this is a supplement, under the same rules, regulations, and restrictions, as are provided for those of the Continental service."

The amendment was supported by the mover, and opposed by Mr. WHIPPLE, when the question was taken thereon, and the motion was negatived ; and thereupon, on motion of Mr. COCKE, the Committee rose and reported the bill as amended.

In the House, the amendments reported by the Committee of the Whole were respectively concurred in.

Mr. WILLIAMS, of North Carolina, moved to insert the words "the justices of the peace," to take the evidence of application, &c., in addition to judges.

Mr. COOK proposed to amend the amendment by striking out the words "of the peace" after the word "justice," and to insert in lieu thereof the words "of a court of record."

This modification was assented to by the mover, but was opposed by Mr. REED and Mr. WRIGHT, and supported by Mr. COOK and Mr. GILMER ; and the question being taken thereon, the amendment, as modified, prevailed.

Mr. ALEXANDER moved to adjourn, which was lost.

Mr. MCCOY moved to lay the bill on the table, which was also lost ; when the bill was ordered to be engrossed for a third reading to-morrow.

TUESDAY, March 26.

Mr. RANKIN, from the Committee on the Public Lands, to whom was referred a bill which originated in this House, "to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," and which bill was returned from the Senate with an amendment, embracing also the States of Mississippi and Alabama, reported the same with an amendment to the amendment of the Senate, to the following effect :

"That no part of the three per cent., &c., shall be paid to the States of Alabama or Mississippi, until the sum of \$1,250,000, stipulated to be paid by the United States to the State of Georgia, for the cession of the Mississippi Territory, &c., nor until the whole of the Mississippi stock shall have been redeemed."

This amendment was adopted, and the amendment of the Senate, thus amended, was concurred in.

Ordered, That the Committee on the Judiciary be discharged from the consideration of the bill from the Senate, entitled "An act to amend the act to incorporate the subscribers to the Bank of the United States," and that the said bill be referred to the select committee appointed on the memorial of the president and directors of the said bank.

The SPEAKER laid before the House two pamphlets which had been transmitted to him as Speaker, by Monsieur Franclicu, a citizen of France, containing a projet for the protection of the liberty of the press, which he desired to be laid before the House of Representatives. They were ordered to lie on the table.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, made a report, recommending the appointment of a joint committee of the two Houses, to inquire and report upon the proper disposition of the paintings executed by Colonel Trumbull, under the authority of Congress ; which resolution (being a joint one) was twice read and ordered to be engrossed for a third reading.

On motion of Mr. HILL, the House proceeded to the consideration of a resolution submitted by him some days since, relative to the distribution of certain books, and proposed a modification thereof, so as to inquire into the expediency of purchasing a suitable number of the sixth volume of the Laws of the United States, which had been recently published, for the use of the public Library and of the members of the present Congress.

Mr. RICH moved to amend the same by striking out the words "and the members of the present Congress." The motion was lost, and the question being put on the resolution, as modified, it was adopted—ayes 55, noes 46.

The SPEAKER laid before the House a report of the Secretary of the Treasury, stating the progress that has been made in the settlement of the arrears in the accounts of the Post Office Establishment, and, also, the difficulties which have interfered in the final liquidation thereof ; which was read, and ordered to lie on the table.

The House took up and proceeded to consider the report of the Committee on the Public Lands, on the memorial of Stephen P. Chazotte, and others, composing the East Florida Coffee Land Association ; whereupon, it was ordered that the said report be committed to the Committee of the whole House, to which is committed the bill granting to the State of Alabama, and to the Territory of Arkansas, the right of pre-emption to certain quarter sections of land.

Mr. EUSTIS, from the Committee on Military Affairs, made a report on the Georgia militia

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claims of 1792-3-4, adverse to the allowance of the same; which, on motion of Mr. E., was ordered to lie on the table.

A message from the Senate informed the House that the Senate have disagreed to the amendment of this House to the title of the bill supplemental to an act, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile," and they have passed a bill, entitled "An act to continue in force, 'An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the city council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah, and St. Mary's," in which they ask the concurrence of this House.

The House then again resolved itself into a Committee of the Whole on the state of the Union, on the bill concerning the commerce and navigation of Florida, which was reported to the House without amendment, when the same was ordered to a third reading.

A Message was received from the PRESIDENT OF THE UNITED STATES on the subject of the military fortifications at Dauphin Island and Mobile Point, accompanied by sundry documents. The Message and documents were read, and referred to the Committee on Military Affairs, and the Message was ordered to be printed.

[For this Message, see Senate Debates, March 27, ante page 345.]

EXCHANGE OF STOCKS.

The House then agreed to consider the bill to authorize the Secretary of the Treasury to exchange certain stock bearing an interest of five per cent., for certain other stocks bearing six and seven per cent.

Mr. S. SMITH, proposed certain amendments to the bill, in order to meet the wishes of other gentlemen—the effect of which, if agreed to, will be to include in the stocks to be redeemed by five per cent. stock, the six per cent. stocks of 1814 and 1815, in addition to what is already embraced by the bill.

The amendments were ordered to be printed, and the further consideration of the bill postponed to Thursday next.

REVOLUTIONARY PENSION BILL.

An engrossed bill, entitled "An act supplementary to the acts providing for the relief of certain persons engaged in the land and naval service of the United States in the Revolutionary war," was read the third time.

And, on the question, Shall the said bill pass? it was determined in the affirmative—yeas 128, nays 23, as follows:

YEAS—Messrs. Allen of Massachusetts, Allen of Tennessee, Baldwin, Ball, Barber of Ohio, Baylies, Blackledge, Borland, Brown, Buchanan, Burrows, Butler, Cambreleng, Campbell of New York, Cassedy, Chambers, Cocke, Colden, Condict, Conner, Cook, Crafts, Cushman, Cuthbert, Dane, Darlington, Denison, Dur-

fee, Dwight, Eddy, Edwards of Pennsylvania, Findlay, Fuller, Gebhard, Gist, Gorham, Gross, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hill, Hobart, Holcombe, Jackson, J. T. Johnson, Kent, Keyes, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McLane, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Morgan, Murray, Neale, Nelson of Virginia, New, Newton, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Poinsett, Rankin, Reed of Massachusetts, Reed of Maryland, Rhea, Rich, Rogers, Ross, Ruggles, Russ, Russell, Sergeant, Sloan, S. Smith, W. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stevenson, Stewart, Stoddard, Swan, Taylor, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rennselaer, Van Wyck, Walker, Walworth, Warfield, Whipple, White, Williamson, Wilson, Wood, Woodcock, Woodson, Worman, and Wright.

NAYS—Messrs. Alexander, Archer, Bayly, Burton, Campbell of Ohio, Cannon, Edwards of North Carolina, Garnett, Gilmer, Hooks, McCoy, McDuffie, Metcalfe, Moore of Virginia, Moore of Alabama, Reid of Georgia, Sanders, Sawyer, Arthur Smith, Tatnall, Thompson, Williams of North Carolina, and Williams of Virginia.

EXPENDITURES ON PUBLIC BUILDINGS.

Mr. NELSON, of Massachusetts, from the Committee on Expenditures on the Public Buildings, made the following report:

The Committee on the Expenditures on the Public Buildings, report: That it appears from the statement of the Commissioner of the Public Buildings, laid before the Committee, that his disbursements on account of the centre building of the Capitol, during the year 1821, were as follows, viz:

For materials	\$32,209 50
For freight, wharfage, drayage, tools, smith's bill, fuel, stationery, &c.	7,922 49
For compensation to architect, clerk, and three persons at the head of carvers', stonecutters', and carpenters' departments	8,250 00
For labor, including pay of five persons employed as foremen and overseers	53,932 30
Amount expended on centre building of Capitol, in 1821	\$102,314 29
And there was expended upon the President's House, in the same year, the sum of	5,405 32
For old Executive offices	5,736 67
For ground round the Capitol	2,017 56

Amount expended on the public buildings and Capitol square, in 1821 - \$115,473 8.

Appropriations.

March 3, 1821. For the work on centre building of Capitol, in addition to unexpended balances of appropriations to other buildings - \$80,000 00
January 1, 1821. The unexpended balance of former appropriations for the

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centre building, as appears by the Commissioner's letter, of the 25th of January, 1821, was	35,664 19
The unexpended balance of appropriations of the 11th of April, 1820, for wings of Capitol and Senate Chamber, transferred by act of 3d March, 1821, was	993 26
March 3, 1819. For covering the old Executive offices with slate	10,000 00
March 3, 1821. For covering the roof of the President's House with copper	7,845 00
March 3, 1821. For graduating and improving the ground around the Capitol	2,000 00
Amount applicable to public buildings and Capitol square, in 1821	<u>\$136,502 45</u>

From the foregoing statement it will be perceived that, with the exception of a small excess in the disbursement on Capitol square, the expenditures have been kept within the appropriations; that, on the 1st January, 1822, there was an unexpended balance of appropriations for the centre building and wings of the Capitol, of \$14,343 16, applicable to the work on the centre building; and that the amount of the sums expended upon the President's House, the old Executive offices, and the ground around the Capitol, in 1821, is less by \$6,685 45 than the amount of appropriations for those objects, by the acts of the 3d of March, 1819, and the 3d of March, 1821. An appropriation of \$700 by the act of the 3d of March, 1821, for improvements in the Senate Chamber, and in the Hall of the House of Representatives, and in the Library, is not embraced in the above statement. The committee are of opinion that the materials were purchased at moderate prices; that the labor was procured on reasonable terms; and that the work has been executed in a substantial and workmanlike manner.

The report was, on motion of Mr. NELSON, ordered to lie on the table.

PENSIONS TO WIDOWS, &c.

Mr. LONG submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reviving and continuing in force the law that allows half-pay pensions to the widows and children of deceased soldiers of the late war.

Mr. LONG observed that, notwithstanding the justness of this proposition, he was aware that it would probably meet with opposition, inasmuch as it would be attended with some little expense, if acceded to. But he felt a degree of confidence that this House, on a little reflection, would not be disposed to reject it. By this resolution, it is proposed to revive and continue in force a law that was made, no doubt from the purest motives, for the benefit of surviving widows and orphan children of deceased soldiers, who died in the service during the late war, but now, within a very few days past having expired, before all that it was intended for have had the benefit of it. It may be said that they ought to have applied before the law expired, as there was sufficient time. But the situation of those unfortunate women and children

is well known; they have not the advantage of the earliest information. Indeed, it was by mere accident that they ever knew any thing about the acts of Congress. Some, however, had been apprized of it through their friends or otherwise, and have applied and received the benefit of the law; others have now applied, but unfortunately too late, the law having expired. I hope it will not be the sense of the House to reject their claims, merely because they have not applied within a certain day. We may reasonably suppose that all would have applied as soon as convenient after they knew of the law. There was one case that had come within his knowledge, and to which it had become his duty to attend to, wherein all the necessary papers had been made out but one, which was the relinquishment to the right of land, and consequently the petitioners were denied that which was intended for them by the law. If Congress should now refuse to revive the law, the prospect that has been held out to those poor women and children by this law, will not only be blasted, but the expense they have been at in preparing their papers, will be lost; he therefore hoped the resolution would be adopted.

After receiving a modification, at the suggestion of Mr. SERGEANT, by assent of the mover, the object of which was to refer the subject to the Committee of Revision and Unfinished Business—

Mr. MCCOY moved that the resolution be ordered to lie on the table; which motion was negatived, and the resolution was adopted.

GOVERNMENT OF FLORIDA.

The House then resolved itself into a Committee of the Whole on the state of the Union on a bill from the Senate to establish a Territorial government in Florida.

Mr. HILL proposed to insert in the 20th line of seventh section, after the word "court," the words "who shall reside in or near St. Augustine and Pensacola, respectively." The amendment was supported by the mover, and opposed by Messrs. SERGEANT and MOORE, of Alabama, when the question was put, and the amendment negatived.

Many amendments were proposed and considered; among which were two by Mr. SANDERS, of North Carolina, which gave rise to some debate, one of which was withdrawn by the mover, and the other was adopted. Among the gentlemen who proposed or spoke to amendments, were Messrs. ALLEN, of Massachusetts, BURTON, RHEA, and many others.

Mr. MONTGOMERY, after a few prefatory remarks, submitted, as a substitute for a section which it was proposed to strike out, the following:

And be it further enacted, That all the principles of the United States Constitution, for the security of civil and religious freedom, and for the security of property, and the sacredness of rights to things in action; and all the prohibitions to legislation, as well with respect to Congress as the Legislatures of the States, be, and the same are hereby declared to be, applicable to the said Territory, as paramount acts.

Before any decision thereon, Mr. COLDEN submitted an amendment to be inserted in the 11th

line, on which a question of order arose, in which Messrs. ARCHER, BARBOUR, MONTGOMERY, and HILL, took part, when the Chairman decided that the motion of Mr. COLDEN was in order.

Mr. SERGEANT suggested to the mover that the object of the motion was fully provided for in other parts of the bill, on ascertainment of which, Mr. COLDEN withdrew the amendment.

The question then recurred upon the amendment proposed by Mr. MONTGOMERY, in which a debate ensued of considerable length, in which Messrs. TRIMBLE, McDUFFIE, ARCHER, RHEA, and GILMER, took part.

Mr. RHEA said, he would vote against striking out the section under consideration. We have, said he, lately obtained the sovereignty of Florida. The people inhabiting that country have not long been comprehended within the territory of the United States. The ninth section of the bill contains three great principles, namely: one securing the right of conscience, one securing personal liberty, and another securing the right of property. The people of Florida (except citizens of the United States who may have removed there either temporarily or permanently) know little of our Constitution and laws; to these they are strangers. Many principles of the Constitution of the United States require laws of the United States to carry them into operation. It has been intimated that the Constitution of the United States covers the people of Florida, and that is sufficient. The treaty whereby Spain ceded Florida to the United States might as well be urged in this argument as the Constitution of the United States; for that treaty provides for the security of the people of Florida in the enjoyment of their religion, and personal liberty, and right of property. The Constitution of the United States provides that new States may be admitted into this Union; the treaty with Spain provides that the people of Florida shall, in due time, be admitted into this Union; but laws of the United States, providing for such admission, are necessary. Who has heard of a new State being admitted into this Union without laws of the United States providing for such admission? This "bill for the establishment of a Territorial government in Florida," provides that certain laws of the United States shall have full force and effect in Florida. The reasons urged for striking out the ninth section may, with equal propriety, be urged for striking out the eighth section of this bill, which provides that the said laws shall be in force and obtain in Florida, because the eighth section of the first article, and the third section of the fourth article of the Constitution of the United States give power to Congress to enact such laws. That the Constitution of the United States shall obtain and have full force and effect in a territory not included within the bounds and limits of the territories of the old thirteen States, or either of them, but which has been acquired by treaty from any foreign Power since the adoption of that Constitution, and that the inhabitants of such Territory shall be entitled to all the rights, privileges, and immunities, sanctioned and confirmed by the Constitution to citi-

zens of the United States; it appears necessary and consistent with the Constitution of the United States, that the sovereign people shall, by the Congress of the United States, enact laws preparatory to, and declaratory of, the admission of such territory to a participation of the rights, &c. derived from the Constitution, and afterwards to be admitted a State of this Union on the same footing as one of the original States; the people of such new State will then have their full representation in both Houses of the Congress of the United States, and then the Constitution of the United States is in full operation in and over such new States as it is in one of the original States.

Religious liberty, the right to worship the Eternal, agreeably to the dictates of conscience, is the highest rights an human being can possess. The treaties made by the United States with foreign Powers, by which territory has been acquired, do guaranty religious liberty—the right to worship the Eternal, agreeably to the dictates of conscience, to the people of that acquired territory. The first article of amendment, to the Constitution of the United States, declares that Congress shall make no law respecting an establishment of religion, or prohibiting the exercise thereof—the Constitution of the United States guaranties to each State a republican form of Government; and the Constitution of each State respectively guaranties to the citizens thereof the freedom of religious opinions, professions, or worship—and the citizens are protected in their liberty and property. The 9th section of this bill provides that the inhabitants of Florida shall be protected in their liberty, property, and the exercise of their religion; thereby confirming, by the sovereign powers of the United States, the rights which the Florida Treaty reserved to them.

This ninth section, so far as it goes, may be considered as a constitution containing principles of a permanent nature; on which is bottomed, so far as this bill provides, the Constitutional compact of the people of the United States with the people of Florida; this section declares to the inhabitants of Florida that they shall be protected in their liberty, property, and the exercise of their religion—and it notifies them that no law shall ever be valid, which shall impair, or in any way restrain them in the freedom of their religious opinions, professions, or worship.

In all ages, men who sincerely worshipped the Almighty, in any manner or form, have deemed the rights of conscience and the freedom of religious opinions most sacred; of this right they have been most tenacious, and have suffered persecution of every kind rather than surrender or give it up to the arbitrary will of others. The inhabitants of Florida are presumed to be tenacious of their religious opinions, as well as of their liberty and rights of property. They may have been informed that the Florida Treaty provides that they shall possess these rights—they may understand that they are to be admitted as soon as possible into this Union, under the Constitution of the United States; let the ninth section of this bill be retained, and they will be expressly informed that the rights enume-

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rated in this section are to them confirmed by the sovereign power of the United States.

The question was then taken upon striking out the 10th section, (of which Mr. MONTGOMERY'S amendment was proposed to be inserted as a substitute) and the motion was lost.

Mr. WALKER then moved to amend the bill so as to authorize the people of Florida to elect their Legislative Council. The question was taken and lost—ayes 15.

Mr. COLDEN called for the reading of a memorial of certain citizens of the city of New York, praying for the suppression of slavery in Florida, and which had been referred to this committee; and the memorial was read.

The Committee then rose and reported the bill as amended to the House, when the amendments were respectively concurred in.

Mr. HILL moved to amend the 7th line of the 5th section, by inserting after the word "law," the words "which is now in force or which shall hereafter be passed."

The amendment was opposed by Mr. McDUFFIE, and negatived.

Mr. MONTGOMERY again submitted the substitute he had offered in the Committee of the Whole, which was again negatived.

Mr. MOORE, of Alabama, moved to increase the wages of the Legislative Council per diem, by striking out the word three, so as to allow them an allowance of five dollars per day, which was lost, as was also, a subsequent motion to make the compensation four dollars per day.

No further amendment having been offered, the bill was ordered to be engrossed for a third reading to-morrow.

WEDNESDAY, March 27.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of the General Assembly of the State of Alabama, on behalf of Colonel Samuel Dale; which was read, and the resolution therein submitted was concurred in by the House as follows:

Resolved, That the Committee of Claims be discharged from further considering the petition of Samuel Dale, and that so much of it as relates to a donation of land to the petitioner, be referred to the Committee on the Public Lands.

Mr. McLANE, from the Committee on Naval Affairs, reported a bill for instructing and disciplining the midshipmen in the Navy of the United States; which was read twice, and committed to a Committee of the Whole.

Mr. LITTLE presented a petition of sundry inhabitants of the District of Columbia, praying that the jurisdiction of justices of the peace in said District, in civil causes, may be extended to a sum not exceeding fifty dollars; which petition was committed to the Committee of the whole House, to which is committed the bill to extend the jurisdiction of the justices of the peace as aforesaid.

Ordered, That the petition of James Bennett, presented on the 25th instant, be referred to a se-

lect committee, and Mr. MILNOR, Mr. COLDEN, Mr. STEVENSON, Mr. FULLER, and Mr. POINSETT, were appointed said committee.

The House took up and proceeded to consider the report of the Committee on the Judiciary on the petition of the General Assembly of Alabama, for permission to tax certain lands; and the said report was again ordered to lie on the table.

Mr. WARFIELD, submitted the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of appropriating a sufficient sum of money to turnpike the post road leading from the City of Washington to Fredericktown, in the State of Maryland.

And the question being taken thereon, the resolution was negatived.

Mr. REID called for the consideration of a resolution submitted by him yesterday, for placing a glass ceiling under the dome of the Representatives Hall, but the House refused to consider the same, ayes 52, noes 64.

Mr. REID submitted the following resolution:

Resolved, That the canvass lately covering the Hall, be replaced, under the direction of the Speaker.

But the House refused to consider the same.

Mr. COOK called for the consideration of the bill for the relief of James McFarland. The House agreed to consider the same, and concurred in the amendment reported by the Committee of the Whole. On the question of engrossing the bill for a third reading, it was opposed by Messrs. COCKE, ALEXANDER, and MCCOY, and supported by Messrs. COOK, STERLING of New York, and MOORE of Alabama; when, after a further amendment, at the suggestion of Mr. RANKIN, had been adopted, the said bill was ordered to be engrossed for a third reading.

A message was received from the Senate announcing the disagreement of that House to an amendment to the bill granting certain lots of lands in the city of New Orleans and town of Mobile, &c.; and, on motion of Mr. SERGEANT, the House receded from their amendment, and the bill was passed.

A bill from the Senate to continue in force an act declaring the assent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and the acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's, was read twice, and committed to a Committee of the Whole.

The joint resolution submitted yesterday, by Mr. BLACKLEDGE, from the Committee on the Public Buildings, relative to the proper disposition of the paintings of Colonel Trumbull, was called up, and, by unanimous consent, the following substitute was received in lieu thereof:

Resolved, That a committee be appointed, consisting of three members, jointly with such committee as may be appointed by the Senate, to examine and report to the respective Houses the most eligible dispo-

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sition to be made of the national paintings executed by Colonel Trumbull, under the authority of Congress.

The resolution was ordered to be laid on the table.

Mr. SMITH, of Maryland, gave notice that he should, on Friday next, call up the bill making appropriations for the support of Government for the year 1822.

GOVERNMENT OF FLORIDA.

The bill from the Senate providing for the establishment of a Territorial government in Florida, with the amendments adopted in this House, was then read a third time.

Mr. ARCHER, of Virginia, rose and said, he had proposed to have taken the occasion of the passage of this bill to have presented to the House some views of the matters connected with Florida, and having avowed to several members this intention, he thought it proper to state why he forbore. He perceived that the members were exhausted by the sitting of the House; and, from other indications, he found that the sense of the House was clearly against the commencement of debate on the subject. In deference to this sentiment, he waived the right, which he had intended to have exercised, of declaring his sentiments; and he hoped the House would appreciate the motive by which he was actuated.

The question on the passage of the bill was then taken without debate, and carried without opposition. [The bill has to go back to the Senate for concurrence in the amendments.]

The bill concerning the commerce and navigation of Florida, was read a third time and passed.

FUGITIVE SLAVES.

The House then resolved itself into a Committee of the Whole on the bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape to any other State or Territory.

No amendment having been proposed to the first section of the bill, the second was read, when

Mr. COLDEN moved to strike from the different parts thereof where they occurred, the words "or justice," so as to limit the exercise of the power contained in that section, to judges of a court of record. He contended that the great powers contemplated, ought not to be given to justices of the peace, who were, in rank, the most inferior officers to whom the administration of justice is confided.

Mr. WRIGHT replied, and observed that he had no great objection to this specific proposition; nor did he wish to extend the powers contemplated by the bill to justices of the peace, but contended that the word *justice*, in the bill, was used in its primitive sense. Mr. W. extended his remarks to considerable length, not only in respect to the amendment, but on the general principles of the bill, which he contended were in conformity to the Constitution, which each member of the House was sworn to observe.

Mr. MOORE, of Virginia, observed that he felt a

strong and peculiar interest in the passage of the bill. He thought he should be correct in saying that the district he represented sustained an annual loss of four or five thousand dollars by runaway slaves. The law of 1793 was inadequate to the object it proposed to effect; and he believed a bill of this sort was indispensably necessary, and urged a variety of reasons in favor of the principle of the bill.

Mr. COLDEN then withdrew the amendment he had proposed, and moved to strike out the enacting clause to test the principle of the bill. He observed that no man would go further than he would to give effect to the Constitution, which all agreed to denominate sacred. He was not one of those visionary philanthropists who would contend for immediate and universal emancipation. He was aware that such an attempt was impracticable, however greatly it was to be desired. As a primary consideration, it was first to be determined whether this bill contained any necessary and valuable provisions beyond those already existing, and under this view of the subject he examined with minuteness the present laws on the subject, and contrasted them with the provisions of the bill. He thought the latter were inconsistent with the principles of liberty, and had a direct and efficient agency to promote the traffic which had been carried on to a great extent of seizing free blacks and selling them for slaves. He contended that it was not competent to violate the principles of civil liberty merely because some districts had sustained injury, as had been expressed by the gentleman from Virginia, (Mr. MOORE.)

Mr. WRIGHT believed that the bill was sufficiently guarded for the protection of civil liberty—expressed his devotion to its cause, and to the principles of the Constitution, and his wish that the gentleman from New York (Mr. COLDEN) would unite in guarding the bill from encroachments upon that instrument, if he feared it was about to be impaired. Mr. W. referred to cases that had occurred in Maryland and elsewhere, which called imperiously for the passage of the bill.

After some further remarks by Mr. NELSON, of Virginia, against the motion, and by Mr. CHAMBERS in support of it, Mr. WOODCOCK moved that the Committee rise and report progress, which was agreed to, and leave was given to the Committee to sit again.

THURSDAY, March 28.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Benjamin Desobry, which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the select committee to whom was referred the petition of Henry S. Tanner, reported a resolution authorizing the Clerk of the House to purchase ten copies of his Atlas for the use of Congress; and, on motion of Mr. SERGEANT, the resolution was ordered to lie on the table.

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Ordered, That the Committee on the Judiciary be discharged from the consideration of the petition of sundry inhabitants of South Carolina, referred on the 22d ultimo, and that it lie on the table; also, from the consideration of the petition of C. W. Neale, and that it be referred to the Committee for the District of Columbia; also, from the consideration of the petition of James H. McCulloch, and that it be referred to the Committee of the Whole, to which is committed the bill to limit the compensation of marshals in certain cases.

Mr. CAMPBELL, of Ohio, from the Committee on Private Land Claims, reported a bill for the relief of Samuel Ewings, which was read twice, and committed to the Committee of the whole House, to which is committed the bill from the Senate, entitled "An act concerning the lands and salt springs to be granted to the State of Missouri, for the purposes of education, and for other purposes."

Mr. HENDRICKS, from the Committee on Public Lands, to which was referred the bill from Senate, entitled "An act granting a tract of land to William Conner and wife, and to their children," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. STERLING, of New York, from the same committee, reported a bill directing the sale of certain tracts of land in the State of Ohio, heretofore reserved on account of salt springs; which was read twice, and committed to the Committee of the whole House, to which is committed the bill making provision for the survey and disposal of the public lands in the Territory of Florida.

On motion of Mr. BLAIR, the Committee of Claims were instructed to inquire into the expediency of allowing additional compensation to William Drakeford, assistant marshal of South Carolina, for taking the fourth census of Kershaw district.

The House took up and proceeded to consider the report of the Committee of Claims on the petition of Enos Terry; whereupon it was ordered, that the said report be committed to the Committee of the whole House, to which is committed the report of the Committee of Claims on the petition of John Thomas, of Ohio.

A message from the Senate informed the House that the Senate have passed a resolution for the appointment of a joint committee "to confer upon the subject of such disposal as may be suitable, for the national paintings executed by Colonel Trumbull," and have appointed a committee on their part.

The resolution was concurred in by the House; and Messrs. BLACKLEDGE, GORHAM, and VAN RENSSLAER, were appointed of the committee on the part of this House.

Mr. RANKIN called for the consideration of the bill which is lying on the table, providing for the examination of the titles to lands lying between the Rio Hondo and the Sabine river; which was agreed to.

Mr. J. S. JOHNSTON submitted an amendment to constitute a third section of the bill, the purport

of which was to grant a right of pre-emption to the present settlers on said land. The amendment was earnestly advocated by Mr. JOHNSTON, and opposed by Messrs. RANKIN and COCKE.

Finally, on motion of Mr. STERLING, of New York, the bill was laid on the table.

An engrossed bill, entitled "An act for the relief of James McFarland," was read a third time and passed.

VACCINATION.

Mr. SERGEANT, from the Committee on the Judiciary, to whom was referred a resolution of this House, requiring that committee to inquire into the expediency of repealing or modifying the law of 1813, on the subject of vaccination, moved that the said committee be discharged from the further consideration thereof.

Mr. BURTON said, that it was a matter of much more importance than those not immediately interested believed it to be. Ten of our fellow-creatures, he said, had lost their lives—and by whom? By the act of a man who styled himself the agent of the United States, and a law of the United States had placed it in his power to do this irreparable injury. If this subject was not to be inquired into, what would be the impression on the public mind? Would not the boasted protection of life, liberty, and property, be considered a solemn farce, if the lives of our fellow-citizens were to be taken, and passed over with the same indifference as if there had been so many cattle slaughtered? My object, said Mr. B. is to repeal the law, or place the institution on a more respectable footing, and make the agent in some way responsible, that the same accident may not again occur. He further said, he believed he could prove, to the satisfaction of any impartial mind, that the present agency was not only a nuisance, but a nuisance of the most dangerous kind.

Mr. B. then moved that the subject should be referred to a select committee.

Messrs. BURTON, HALL, WHIPPLE, HOLCOMBE, and DARLINGTON, were appointed said select committee.

SOUTH AMERICAN GOVERNMENTS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the report of the Committee on Foreign Relations, recommending the recognition of the independence of the South American provinces, and proposing an appropriation to carry the same into effect.

The resolutions with which the report concludes are as follows:

Resolved, That the House of Representatives concur in the opinion expressed by the President, in his Message of the 8th of March, 1822, that the American provinces of Spain, which have declared their independence, and are in the enjoyment of it, ought to be recognised by the United States as independent nations.

Resolved, That the Committee of Ways and Means be instructed to report a bill appropriating a sum, not exceeding one hundred thousand dollars, to enable the President of the United States to give due effect to such recognition.

Mr. TRIMBLE said, that as he had, some weeks past, offered a resolution requesting the President to acknowledge the independence of all the South American Governments, and as the proposition before the Committee was in accordance with his feelings and his wishes, it might be expected here, as he was sure it would elsewhere, that he should say something on the occasion. When he offered the resolution referred to, it was his intention to discuss the subject freely and at large. He would have entered upon that discussion with much zeal he was sure, but, he feared, without much ability. Happily, the Message and documents had given a new face to the whole subject, and saved the people the unpleasant necessity of expressing an opinion against the course of policy which their fears had prepared them to expect. Had the President failed to recommend the recognition of those Governments, impartial history—if men may look dimly into futurity—would have torn from his temples the garland which a grateful country had placed there, as a reward for his public and revolutionary services. But he has not failed. Faithful to the principles which gave birth to our own revolution, and regardful of the voice and wishes of his country, he has recommended an acknowledgment of all the nations of America. It was a Message of good tidings to twenty millions of freemen. It fills up the measure of his fame, and now he may go down to the grave, with his patriot compeers, ripe in age, and full of honor and renown.

It was proper, Mr. T. said, that he should do justice to the Executive on this occasion, especially as it was well known that he differed widely from the Cabinet upon some other subjects. Frankness, he hoped, was still in fashion. He had no favors to repay, nor disappointments to resent. He asked no pension, place, or office, in the gift of the Government, nor ever would so long as he retained his seat upon that floor; and, so long as the privilege of speech was tolerated, he would use it where he ought, to disapprove with firmness, or applaud with candor and sincerity. He felt it his duty to make some reference to a distinguished person, (formerly the presiding officer of that House,) who had always stood foremost in the great cause of the Patriots; but there were reasons, well understood, which made it proper to be silent, and those reasons should prevail. But, if he had full liberty to speak, what could he say of his late colleague, that is not known and felt by every one? The efforts of that citizen in favor of the Americas, and his exertions to procure an acknowledgment of their independence, are well known to this country and to the whole civilized world. He has erected for himself a monument of imperishable fame—a monument as broad as the continent whose cause he advocated, as high as the towering Andes that rise above its clouds. Two hemispheres have witnessed his exertions, and both will hold his services in grateful recollection.

Mr. T. congratulated the President and the country, and the friends of freedom every where, upon the great political event just struggling into birth. The friends of America, he said, are not

called upon now, as formerly, to show that its Governments are independent. The President affirms the fact, and none will question his veracity. The letters of Mr. Torres prove all that is material to know, and the Message admits his statements to be true. They are known to be so by all Europe and America. Those letters, said Mr. T., do honor to the heart and head that wrote them. They equal in merit the finest State papers of the age. Colombia may claim the writer and the facts as her's but the papers are the property of nations. Free governments will preserve them as invaluable treasures. Such a man is an ornament to his country, as his country is an ornament to others. Every thing, he said, from that Republic fills us with admiration. The valor of its armies—the patriotism of the people—their devotion to the cause of independence, entitle them to our profound regard. But, above all, their constitution, similar in all its important features to our own, is most flattering to our pride, and most consoling to our hopes. We have the best authority for believing that Buenos Ayres, Chili, and Peru, are advancing in the science of self-government; and, although we know but little of the internal affairs of Mexico, yet what we do know gives assurances that it also has a Bolivar. Much, it would seem, is in the power of Iturbide. Let us hope that he will not sacrifice his country on the altar of ambition, and that Mexico, like Colombia, will have its Washington.

He did not intend, he said, to trouble the Committee with a history of the rise and progress of the Revolution; nor to array before them the great events which had conducted the Spanish colonies to independence. He would omit a summary of sieges; "of battles lost and won;" of invading armies, and the means and measures taken to conquer or expel them; nor would he digress into statistical estimates or geographical details, especially as all these were better known to a member near him, (Mr. POINSETT,) who, he hoped, would assist the Committee with his information; and also to the gentleman from Virginia, (Mr. NELSON,) both of whom, he was sure, would be listened to with much pleasure by the House.

One fact, said Mr. T., is clear: *All the Spanish nations of America are free.* They have all thrown off the yoke of Spain, "holding her as they do the rest of mankind, enemies in war, in peace friends." Each has declared itself independent, and all enjoy the rights of self-government, under the guaranty of written constitutions, adopted or preparing for adoption. Hitherto we have maintained a strict neutrality between the two Spains. We shall do the same in future, but there is a period beyond which nations cannot safely refuse to acknowledge the independence of each other. No statesman has asserted, or will assert, unless he intends to invite the execrations of his country, that we ought always to refuse a recognition. All agree that we must, at some time or other, act upon the subject. The President informs us that the time has come, and there ought to be but one opinion about the manner of making the acknowl-

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edgment. The respect which free Governments owe to themselves, and to each other, ought to decide the question. It was the known usage, he said, among crowned heads, to send ambassadors of the highest rank to each other, and ministers of the lowest grades to republics, and for that very reason, republics ought to send ambassadors of the highest rank to each other, and ministers of the lowest grade to crowned heads. This ought to be decisive, in extraordinary cases like the present. He would not advance an opinion as to the number of ministers that ought to be sent out, but he felt himself bound to say, in justice to the country, that ambassadors extraordinary ought to be sent to Colombia and Mexico; and if ever the best talent in the nation ought to be selected for a mission, this was surely the occasion. If a free people ought at any period to appear in all their weight of character and talent, arrayed in all the pride of plain republican simplicity, this was the time. He was much mistaken if the country would tolerate any selection, made from among citizens of second rate capacity.

He did not intend, he said, to go into an investigation of the great agricultural, manufacturing, and commercial interests of the American nations, but there was one or two suggestions on those subjects, peculiarly proper at this time, and under existing circumstances. It was well known that Europeans had been endeavoring for years past to persuade the people of Spanish America, that *their* agricultural and commercial interest, and *those* of the United States, are hostile to each other. Such assertions, if true, would have no weight upon the present question; and yet, if false, they ought to be refuted. Foreigners had no doubt put them forth for the purpose of creating jealousies among the nations of America, hoping themselves to profit by the discord and confusion. Fortunately they were contradicted by all experience, and by the whole theory of free trade. No instance could be named, in which an agricultural people had, by its competition, brought ruin on another. Nations, said he, have been ruined by desolating wars, by repeated invasions, by rapine, plunder, monopoly, oppressive taxes, and wasteful prodigality; but there was no case in which industry had ruined industry. God, in his providence, had placed the economy of nations on a better basis, and blessed the industry of man with brighter hopes and better prospects. Nothing in his view was more easy than to show, that the leading interests of all the nations of America are in perfect harmony, and that their prosperity and happiness would be greatly increased by establishing friendly relations and active intercourse. If he had been called upon to name the events which would give the most powerful and permanent support to all the great interests of our hemisphere, he would have said—

The independence of all the Americas;

The independence of the West India islands;

And commercial intercourse with all, upon the basis of exact equality.

Mr. T. said the nations of America had suffered more from the severity of commercial inter-

dictions and colonial monopoly than they had from the cruelty of arbitrary power—that commercial vassalage had been more oppressive to them than political dependence; and that they are as deeply interested in the establishment of free trade as they are of free government—that the radical change made in their political condition would necessarily be attended with a corresponding change in their commercial intercourse and maritime relations—that their case, in all its aspects, was similar to that of the United States, and would terminate in similar results—that the entire emancipation of the new from the old continent could only be effected by two great revolutions: the one political, the other commercial—that both had commenced in the United States under the most favorable auspices, and were progressing southward in the “full tide of successful experiment”—that these revolutions had been preceded by a “wide spread range” of moral reformation—that the new hemisphere had produced a new catalogue of civil maxims—a new family of political institutions—a new code of commercial regulations—that all civilized nations were under the dominion of two great social systems, differing widely from each other—that one was established in the *Occidental*, the other in the *Oriental* world—that the spirit of the age was against the European system—that the American system had invaded Europe, and spread alarm and consternation everywhere among its kings and emperors—that a coalition of crowned heads was created to oppose it, and two millions of armed men embodied to expel it from that continent. And what, said he, are these systems? What is the American system? Why is it that it agitates two worlds? Why should kings shudder at it while their subjects bid it welcome? Of what is it composed? What is the element that thus, when unresisted, operates unseen, but, when opposed, launches its thunderbolts at diadems, and shakes the nations like an earthquake? It has two aspects, two essential principles—one political, the other commercial. The first is known and distinguished by written constitutions, representative government, religious toleration, freedom of opinion, of speech, and of the press. The second, by sailors’ rights, free trade, and freedom of the seas. Contrast it with the European system. The political character of that system is aristocracy, monarchy, imperial government, arbitrary power, passive obedience, and unconditional submission. Its commercial character is prohibition, restriction, interdiction, impressment, colonial monopoly, and maritime domination. These systems, said he, are the antipodes of each other. They are sworn enemies, and cannot harmonize.

The American system is free government and free trade; monarchy and monopoly is that of Europe: But the European system is artificial, and will perish with the spurious causes that produced it. The American system is natural, and, therefore, durable—natural, because it springs from public opinion—from the embodied will of nations acting freely for themselves; durable, because it reposes upon written constitutions. Its

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first appearance struck the despots with dismay. Our Revolution gave it birth. Its nativity was cast among these States. It grows with their growth, and strengthens with their strength. The impulse of the age accelerates its motion. Nothing can impede its march, because it moves in the majesty of national opinion, and public opinion is a power that cannot be resisted. From every zone we hear of Congresses, elected by the people, assembled and assembling to establish written constitutions. The system spreads like light—its rays fall every where. The nations hail it as the harbinger of peace and happiness. They act wisely in laboring to adopt it, seeing that the people of this Union have prospered under it beyond all former parallel. He said that the tendency of the American system was manifest to every statesman. That its political progress and extension could be seen by every observer, and time would develop its maritime results. A single instance would explain its commercial operation. The Continent is free: not so, the Islands. Europe, as to them, will continue its system of colonial monopoly—its system of interdictions, prohibitions, and restrictions. These will act and re-act upon all the Americas, but more especially upon Colombia, Mexico, and the United States. Those Powers will retaliate, and unite in their retaliation. The common injury will find a common remedy. They will adopt the counter-check of navigation laws, and, by simultaneously protecting regulations, exclude all foreign tonnage from their ports and harbors. A blow like that, he said, would be decisive. It would forever prostrate the colonial system and open a free trade to all the Islands. The measure, when adopted, would finish the commercial revolution. It would subvert the whole system of maritime domination, and restore the freedom of the seas. And thus the Americas, by the re-action of internal laws and regulations, well concerted and well directed, may enforce their system of free trade. Thus, without the waste of blood or treasure, they may sustain the general system, and vindicate the rights and honor of the continent. Hitherto, he said, the American system of free trade had been struggling, single-handed, with the European system of colonial monopoly, and had maintained itself against the fearful odds. Hereafter, all the Americas will co-operate. The subject ought to have their prompt attention. It required a careful examination, because the course of policy to be adopted by them would settle, finally and forever, whether the American system shall prevail, or that of Europe triumph over it.

Mr. T. was anxious to show, for various reasons, that the great interests of the West India Islands were in unison with the interests of the Continent, and for that purpose went at some length into an explanation of their present condition, and their future prospects. It was his opinion that they would soon throw off the yoke of Europe, and declare their independence. Perhaps they would form a league, and Cuba, in that event, would be the head. Perhaps they would claim a guarantee, and become dependencies of the Ameri-

can nations. In any event, he said, they would adopt the American system, because their interests are all American, and their moral feelings and social habits are acclimating themselves, and every day becoming anti-European.

It was his impression that the nations of America would derive as many advantages from treaties, placing their commerce on a footing of equality, as they would from a recognition of their independence. In that respect the United States could do them double favors. In doing which, she would herself receive an equivalent of benefits. Geography, he said, had been considered as the mistress of political and commercial policy. All experience had proven that near neighbors would be warm friends, or open, active enemies. This was true of men and nations; and, if true, would furnish solid reasons to justify the prompt establishment of friendly intercourse. It was his decided opinion that treaties of amity, commerce, and navigation, should be made with all the Americas as soon as possible, but especially with Colombia and Mexico. The existing interests of the Continent, as well as its future peace and harmony, require it. That our ambassadors, when sent, ought to be instructed to negotiate such treaties. That those treaties ought to be discussed and formed upon the basis of exact equality—of perfect reciprocity. That nothing should be asked on any side, or granted, that would become onerous to the others. Let all, he said, start fairly in the race of emulation, and each would lend a helping hand in times of need. Nations rarely change their course, and, therefore, should be careful at the outset. He hoped that the great elementary principles of political and moral justice would be consulted by the Americas, at the commencement of their diplomatic intercourse. The nations of America, he said, by acting as they ought to do, would have the honor of establishing three new systems—a system of free government, a system of free trade, and a system of honest, fair diplomacy. That, in justice to themselves, they ought to disabuse the reputation of Republics, by an abjuration of all diplomatic chicanery and treacherous overreachings. That each nation ought to do every thing within its power for the preservation and prosperity of all, and that none should strive to strengthen or enrich themselves at the expense of each other. That each ought to be left in the free enjoyment of all its natural advantages, and none be made the victims of clandestine treachery or odious extortion. That all advantages gained by false pretences or dexterous circumvention, would terminate in jealousy, and discord, and disruption. That it is the sacred duty of nations to preserve equality in treaties, and that the Americas are called upon, in an especial manner, to give the world examples of disinterested justice and magnanimous forbearance. That their prosperity and happiness would be best promoted by adopting a liberal policy, in which the various interests of all shall be equally consulted. That it was the peculiar good fortune of the nations of America to have the power of affording equal protection to the rights and interests of each other, without any violations of neutrality. That if, in

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making the experiment of social intercourse, any discrepancy of interest should be found, (a thing not probable,) each nation ought to yield something for the purpose of insuring general harmony and concord. That the United States ought to set the first example, by making the first and greatest sacrifice. That disinterested liberality on her part would find its equivalent in the generous confidence of her sister Republics.

He had great satisfaction in uttering these sentiments, because he knew that they were in unison with those of the most influential and enlightened statesmen of Colombia; and he believed, of all the nations of America. They ought, in his opinion, to have full weight in the proposed negotiations, because they were the strongest guarantees of perpetual friendship; the best equivalents for treaties; the surest pledges for the faith of nations; pledges, which the European system of diplomacy had never given, and could not give; equivalents, beyond the power or control of monopoly or domination.

If, said he, we consider this subject in reference to ourselves, and our relations, foreign and domestic, we shall find no solid reasons for delay. If we consult the great political and commercial interests of the Americans, we shall find inducements to hasten the acknowledgment. It is agreed, he said, that those nations are able to maintain their independence. That their means of defence are superior to any armament with which the mother country can assail them. That they exercise all the various powers of self-government, legislative, executive, and judicial; the powers of peace and war; of protection and defence. That they make and administer domestic laws, and regulate all intercourse with foreign nations, and enforce these regulations. In this situation we must either recognise them as free and independent, or put them in abeyance, by a denial of their rights, and thereby incur all the injuries which might justly be inflicted on our commerce with them. No nation has a right to ask another to do itself a voluntary injury—the laws of neutrality do not involve such dangerous and onerous consequences—Governments, like men, owe duties to each other, and a failure to perform them is often punished by national compunction, and forfeiture of reputation. The first duty of one people to another is, to declare who shall be respected as members of the great family of nations—the power, and the right to do so, exists in every government, no matter what may be its form. There is no other mode, save that of military force, by which the peace and harmony of nations can be kept in preservation. And shall the people of this continent forego the advantages of free and friendly intercourse, to indulge the mother country in her love of dominion? Shall we, as a nation, stifle all our sympathies in favor of free governments, to gratify the vain glorious pride of Spain? If we do, we shall betray the rights and interests of republics. Heaven, in giving freedom to us first, made it our primal eldest duty to go forth first, and acknowledge it in others. Honor and duty call alike upon us to perform the rightful obliga-

tion. The same Providence that gave us succor in the perils of our Revolutionary struggle, is conducting the other nations of America, through bloody wars, to peace and independence. Our approbation may inspire them with fresh confidence, and stimulate their love of liberty. If there are any who have fears that the proposed acknowledgment will produce a war with Spain, let them remember that Cuba is a hostage for her peace. The moment she fires a gun at us, we shall occupy that island, and her dominion over it will cease forever. And England, in aiding Spain, would only hasten the downfall of her favorite colonial system—a coalition between Colombia, Mexico, and the United States, would convince her of her folly. It would be better for us if our statesmen would look less eastward, and more southward than they do at present.

Some statesmen hold, he said, that nations, whose political principles and opinions have been formed in the school of despotism, must undergo long periods of probationary preparation, before they can be qualified to manage the affairs of self-government. This is but a modification of the exploded maxim, "that the people know not how to govern,"—that kings must save them from their worst enemies, themselves. Such opinions, if true, form no argument against the policy or justice of acknowledging the nations of America. If true, in former ages, and on the old continent, they are more than doubtful in modern times, and in the new hemisphere. The fact is, that the present and past ages are alike in nothing. The whole civilized world is under the dominion of a different mind. Men and nations are shaking off their mental imbecilities, and preparing themselves to regulate their own affairs. It was necessary that moral regeneration should precede political reform; and thus it has happened. A great moral revolution has occurred, and is occurring. The spirit of the age is busy—reformation is every where at work, and upon all subjects. We see the beginning, not the end of revolutions. No statesman, no nation, should mistake the character and fashion of the times. Every thing, in fifty years, has changed, and every thing is changing. "Nothing of the future will resemble what is past." We live in the crisis of all ages. The whole civilized world is laboring in a crisis—a great moral crisis—a great political crisis—a great commercial crisis. Nations have changed their moral characters, and political opinions, and Governments must change their form and purpose. Formerly, the sword was umpire of the world; and then the maxim grew, that nations were incapable of self-command. Now, public opinion is the great chancellor of nations. All tongues and kindreds own its jurisdiction, and kings and subjects are submissive to its rule; none dare oppose its high authority—none with impunity resist its just decrees. Wars were fought formerly, for families, and dynasties; for the rights of thrones, and prerogatives of crowns; and then, the people were assuredly their own worst enemies. Now, men fight for written constitutions; for the rights of man and prerogatives of nations; and fighting, learn to govern for them-

selves. The contest now is not between dynasties and diadems, but between creeds, and principles, and institutions. Nations formerly had no volition; kings thought and acted for them, rudely pretending, that their subjects had no capacity for affairs of State. But now, the will of nations has supremacy of rank, and speaks by delegation in assembled Congresses; and now, we find more talent—more patriotic feeling—more public virtue—more every thing, that strengthens and improves the social system. Time was, when kings held power by arrogation, and used it at their pleasure and discretion; and then the people were denounced as “a many-headed monster.” The people now reclaim all power as inherent in themselves, and delegate it only as a trust; and now nations are more peaceful, more prosperous, more happy, and more just, than formerly. History speaks only of alliances, or wars, between contemporary despots—now, nothing is talked of but Congresses, and Constitutions, and Representative Governments; and do we find things changing for the worse? The spirit of the age is, peace and moderation. It is the spirit of free government and written constitutions. Its conservative principles are—wide-spread knowledge, equality of rights, freedom of opinion, and frequent and free elections. The spirit of past ages, was war and domination. The trade of man, of all the sons of men, was war—from the first conqueror down to ’76. It was the storm of empires. It raged unspent and unabated. It swept along the field of time, and all was desolation that was left. It had no limits but the margin of the world. Its stream of blood flowed on from age to age; its sources, like the Nile, unknown, lost in the desert of forgotten years; but still, the stream rolled on, increasing with a thousand tributary torrents, and spreading far and wide its overwhelming floods. Such was the history, he said, of past times, and of the olden world. Our continent, on the contrary, is the chosen land of liberty—vineyard of the God of peace; and we, its husbandmen, selected by the unseen will of Providence to till the soil, and feed the famished nations with the food of independence. Let us perform the sacred trust impartially. It is our duty, as a free people, not to sanction, but refute the heresies, that nations are incapable of managing their own concerns. They have disabused themselves by illustrious examples, and we should be careful not to weaken their effect.

It was the will of Providence, he said, that this continent should be the arena of successive revolutions—of moral, and political, and commercial revolutions—the theatre of man’s political regeneration—the hemisphere in which nations should be reinstated in their rights, and reinvested of their “long lost liberty.” On the 4th of July, 1776, the Congress of the thirteen States declared their independence. On this day, (28th March, 1822,) the assembled Congress of the Union will announce the independence of all the nations of America. These are glorious epochs. Let history commemorate them as co-essential in the works of reformation. Freemen are this day called upon to fraternize with freemen; nations to fraternize

with nations. All the Americas are summoned to embrace as friends and equals, and make a lasting covenant of peace. It is not the flight of a false prophet, or the foundation of a city; the birth-day of a petty chieftain, or an heir apparent, that we are assembled here to celebrate. No; a continent has disenchained itself, and stands unfettered and erect. It is the birth-day of a hemisphere redeemed. It is the jubilee of nations. Let the world rejoice.

If experience and long-suffering can create the faculties of self-government, then the people of America are prepared to manage and control their own affairs. For three long centuries they “clanked the chains” of lawless power; for three long lingering ages they felt the “keen lash” and galling yoke of despotism—each generation leaving its manacles to posterity as their only heritage. Continued agonies had worn away the memory of better times. The light of hope had left the Children of the Sun, and dark despair, like soporific drugs, had stupified the powers of will and faculties of life. They slept to mitigate their pain; for nations sleep and never die. But the day of their deliverance was at hand. The Spirit of God was abroad in the sky. It called, and the slumbering nations awoke. It breathed the electric fire of freedom on the air, and a whole Continent ran simultaneously to arms! One great, one god-like purpose, animated all—it was death or independence! Like us, they pledged their lives, their fortunes, and their sacred honor, to live as freemen, or die in its defence. They fought from field to field. A thousand battles left the cause in doubt; a thousand passions mingled in the fray; and all that history has told of savage cruelty, ferocious vengeance, rapine, plunder, treachery, cold-blooded massacre, and every violence and every crime that shocks humanity, was perpetrated over and over again upon all ages, sexes, and conditions. But the God of Battles fought on freedom’s side, and, sickening at the scene of carnage and of desolation, and hastening to end it, he took a *Bolívar* and consecrated him a *Washington*, and putting in his hand a flaming sword, commanded him to go forth to the uttermost ends of the Continent, conquering and to conquer, until oppression should surcease, and man learn tyranny no more. And behold the work is finished, and Colombia is free, and all the Americas are free—free as ourselves; for there all power is acknowledged in the people, and vassalage abolished and unknown; for there all officers are elective, and held by the tenure of the law and the constitution; for there, free in their property, their persons, and religion—

“They own no Lord but him in heaven,
No power but what consent has given.”

This, said he, is not more true of ourselves than it is of the people of Colombia; and to refuse an acknowledgment of them would be idle and preposterous. They have maintained their independence through a lingering war of eleven years—sinking, we all know, in its first stages, under a pressure of adverse fortune, that left the friends of freedom no comforter but hope, and rising afterwards with a tide of prosperity that left the ene-

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mies of liberty nothing but despair. It was a war of freedom against foreign domination; and the people that waged it saw all the vicissitudes and encountered all the calamities incident to civil wars and revolutions. But the long agony is over, and the struggle has terminated in the most complete success. Their fortitude and patience in the long and doubtful conflict were equal to their suffering and privation, and victory was the reward of valor and firmness. In war their measure of renown is full, and history will commemorate the glory of their deeds in arms. In peace they manifest the civil virtues of free Governments—temperance, justice, economy, moderation. Their wisdom is conspicuous in the annals of their policy.

But experience is an able teacher; the chronicles of the times are filled with useful lessons, civil and political, and Colombia has graduated in a school of blood. Her institutions are regulated by the spirit of the age, and accord with the established system of the new hemisphere. She has adopted a constitution of which ours is the prototype; she has formed a federation, over which a second Washington presides, to wield its destinies. The consanguinity of this Union, and that Republic, is established beyond a doubt. Her face, her figure, and her conformation, show the line of her descent. The parity is manifest, the consimilitude complete and obvious. She is a rib taken from our side in a deep sleep, and given to us for a helpmate. When shall we awake from our slumber, and salute her as the fairest among the fair, as the loveliest among thousands? How long shall cold delays and bloodless caution interdict consent, and sever hearts that hasten to unite? Let us this day awake ourselves, and celebrate the rights of nations. Let us this day unfold our arms, and consummate the union of Republics. We interchange Ministers with European Powers as a thing of course. We speak, and are spoken to, by Kings and Emperors. What they say, we listen to as the music of many harps; what they give us, we roll under our tongues as sweet morsels; but this Republic, bone of our bone, and flesh of our flesh, is excluded from the communion table of acknowledged nations. We are deaf when she speaks to us, and dumb when she asks for an answer. If there is light in our countenance, why should we hide it? And wherefore do we turn away from her, as an offended person? The time has gone by, when we might have consoled with her, and softened her sufferings with the witchery of kindred sympathies. The time has come, when we are bound, by all that is just among men, and magnanimous among nations, to acknowledge her independence; he believed it, as he hoped for salvation in the blood of a Redeemer. That people, said he, have dissolved the political bands which united them to Spain; they have assumed among the Powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them; and a decent respect to the opinions of mankind requires that we should acknowledge their independence; a decent regard to the memory of our Revolutionary sires makes it an imperious duty. "We hold

'these truths to be self-evident, that all men are created equal; that they are endowed with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, Governments were instituted among men, deriving their just powers from the consent of the governed; that whenever any form of Government becomes destructive of these ends, it is the right, it is the duty, of the people, to alter, or abolish it, and institute new forms.' And who were the men that first proclaimed these godlike truths to an astonished, but admiring world? *Our fathers.* Who swore unto each other to establish them, or die in their defence? *Our fathers;* who pledged their lives, their fortunes, and their sacred honor, upon the desperate, but glorious hazard. And shall *we*, their immediate offspring, turn recreant in the cause, and treacherously deny ourselves and them, as Peter did the Saviour of mankind? Shall the last of the Revolutionary heroes leave the high station which he fills, without officiating, in his robes of office, at the baptism of this young Republic, and of all the new Republics in America? Shall the nation first free be the last to acknowledge it in others? No! Let us boldly fill up our page of destiny, and leave no blank for after-time to write an execration of our memory. Let us make the acknowledgment at once, and do it gallantly as men—as freemen—as gods, if it were possible, and laugh the fear of despots into scorn. Suppose a change of cases: suppose these people had yielded to the importunities of European Powers, and made Kings to reign over them, and constituted family successions: Would the crowned heads of Europe have invited us to co-operate in their recognitions? Would they, from courtesy, ask our consent or delay through fear of our resentment? No! Not one moment. They would hasten to kill the fattened calf, and dish up the gorgeous feast. They would fill their bowls brimfull, and quaff it merrily; their joy would have no end; they would

"Sing, and dance, and shout, and sing,
And make the heavenly arches ring,"

with their imperial acclamations. Ay, sir, and toast it too. Fill full your goblets. "Let the trumpets speak to the earth, the cannon to the heavens," the allies drink to *Bolívar the First*. And shall we ignominiously refuse to glorify the nativity of Republics? We can refuse—we may refuse. But mark—there is a power that will command us to our duty. A power that speaks and is obeyed; a power that is omnipotent in the affairs of nations; *the power of public opinion*. Let us beware of the reaction of that power; it is the great Jupiter of the age, and statesmen, obedient, tremble when it speaks. That power has spoken in the Patriot cause. In the cause of all the nations of America.

"Hear its decree, and reverence what you hear;
Who yields not recognition, nor wills to yield,
Back from our sight, with shame he shall be driven;
Gash'd with dishonest wounds, the scorn of Heaven."

The scorn of men and patriots, as well as Heaven.

When Mr. TRIMBLE had concluded—

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Mr. POINSETT addressed the Chair as follows :

I shall offer, said Mr. P., no apology to the Committee for addressing them on this occasion. I have resided so long in the countries we are now called upon to place in the rank of nations—am so intimately acquainted with the causes and character of the revolution they have undergone, that I feel it to be my duty to convey to the Committee, as briefly as I can, the information I possess on this subject.

Sir, if ever there was an occasion that justified a revolution, that called upon a people to recur to first principles, and to seek relief from the abuse of power, by an appeal to arms, this was one. The revolution of the Spanish colonies did not arise from a mere question of abstract right, but from actual suffering and grievous oppression; from causes radical and certain, though gradual in their operations; causes that would have inevitably produced the revolution without the violent crisis to which the mother country was exposed, and which only accelerated that event. It was felt in their Government, in the administration of justice, in their agriculture, in their commerce, and in their pursuits of happiness. Governed by Viceroy responsible in name, but, in fact, as arbitrary as the King of Spain himself, who commanded, not only the military Governors and intendants of provinces, but presided over the tribunals of justice, and let any one imagine what government the miserable colonist must have enjoyed under European Spaniards vested with such powers, and who had nothing to dread but an examination of their conduct before a tribunal, two thousand leagues from the theatre of their injustice. The colonist could not even enjoy the natural advantages by which he was surrounded.

The eyes of a jealous and suspicious Government constantly watched the progress of his industry. No sooner did a settlement betray symptoms of prosperity, than it became the subject of oppressive legislation, and was overwhelmed by a swarm of officers, who, like locusts, destroyed the fair prospects of the harvest. The trade was not only confined to certain specified articles, but to a few favored towns. Rich as these favored regions are, and capable of bringing forth the productions of every climate, possessing great facilities of internal and of foreign commerce, they were reduced to indolence and penury by absurd and oppressive restrictions on their industry, on their trade, and on their private enjoyments. Without a market for their produce, it rotted on the ground. I have seen the most fertile districts of that fine country barren and desolate—I have seen the inhabitants, surrounded by all the bounties of nature, destitute of the ordinary comforts of civilized society. To those who have followed the progress of this revolution, and compared it with our own, the difference must appear striking, and from the civil dissensions that have agitated those countries, it has been argued by some that the Spanish Creoles were incapable of enjoying the blessings of liberty—were unfit for self-government. In making this comparison between the two countries, it ought never to be forgotten that our civil and political

institutions, our habits, our customs, our laws, our rights of property, scarcely suffered any alteration by the transition from a colonial to an independent state. The principles of free government, republican principles, had deep root in this country before our Revolution; and if they have grown with our growth, and strengthened with our strength, they were as well understood then as now. The Spanish colonies had never been intrusted, as we had, with any part of the internal administration, and were ignorant and unpractised in government. The means of education, I mean of a liberal and enlightened education, were withheld from the Creole; printing presses were to be found only in a few of the larger cities, where, under a rigid inspection, a gazette and an almanac were permitted to be published. The policy of Spain repressed the advancement of knowledge in her colonies—ignorance and superstition were the powerful means employed to keep them in subjection. The despot is aware that those who possess knowledge will struggle for freedom, and will achieve it; for knowledge is power. Dread of religious toleration, and of what was worse, of spoliation, excited the clergy to oppose the revolution. The influence they exercised over the minds of the people was unbounded; and, had not a few virtuous, well-enlightened priests espoused the cause of liberty, the colonies would still have been dependent. The aristocracy formed another and a powerful obstacle to the progress of this revolution—a class that abhor every constitution founded on an equality of rights—a class that would rather be deprived of those rights than see all participate in them; that prefer any state of suffering rather than see power exercised by their inferiors. I speak now of the mass of the titled men in the colonies. Some few were distinguished for their zeal in the cause of independence.

Another and very essential difference between the two countries, consisted in the number of Europeans, who had distinct privileges from the Creoles, for oppression did not there fall equally on all. They were, to be sure, the smaller party, but the wealth and power they possessed, their union, their influence, the habitual respect in which they were held, their ideas of their own superiority, rendered them a very formidable body. They were aware that their proud pretensions had roused against them a feeling of indignation; that the oppressive measures they had promoted against the interests of the land, had produced hatred and an eager thirst for revenge; and common interest and common danger united them against the Creoles. They could not suppress the revolution, but they retarded its progress, and procrastinated the contest. If, therefore, we regard the little advancement of these countries, their ignorance of the principles of government, their civil dissensions, and the procrastinated struggle for liberty after all opposition had ceased on the part of Spain, it impresses us more strongly with the urgent necessity that existed of shaking off the colonial Government. It was the Government that placed obstructions in the way of agriculture and commerce. It was the Government, that,

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forgetful of its primary obligations, suffered, nay, encouraged the daily violation of the rights and properties of its subjects. It was the Government, in short, that sought to keep the people in the profoundest ignorance, as the means of keeping them in subjection. A revolution proceeding from such causes, was not to be prevented by empty declarations of abstract rights, such as were made by the mother country when struggling for her own existence. The decrees of the different Governments established in Spain during that period, were magnificent in promise. The colonies were told they had the same rights as the mother country, but were treated as if they had none. They were deluded with hopes that were never realized, and were mocked with the semblance of a representation. Deputies assigned them, not elected by them. At no time was there more peculation, violence, and oppression, than during the interval between the invasion of Spain and the insurrection of the colonies. These causes operated alike on all, and the revolution commenced without previous concert, almost at the same moment in every part of this vast continent. It has triumphed not only over the opposition of the mother country, but over civil dissensions, and the storms of party. In Caracas, where the revolution first commenced, its success was retarded by one of the most awful events recorded in history. The city was almost entirely destroyed by an earthquake, on the anniversary of their revolutionary movement. The clergy availed themselves of this event, and, assisted by the superstition of the people, re-established, for a short time, the royal authority. The brave and patriotic Bolivar kept up the spirit of the revolution. His active exertions renewed the struggle for liberty; and his zeal and perseverance restored his country to freedom. By his conduct and valor, the most formidable armament ever sent across the Atlantic, has been destroyed. His efforts have united Caracas and New Granada into one Republic, and he has spread the principles of independence and of free government to the shores of the Pacific.

Buenos Ayres has triumphed over the repeated and formidable efforts of the mother country to subdue them. They have had, besides, to contend against a powerful party of royalists in the interior provinces. The wealthy creoles of that country could not be easily roused to take an active part in a contest, the issue of which was uncertain. No doubt they preferred a national government, and freedom of commerce, but that was not strong enough to vanquish their love of repose and indolent habits; to urge them, in short, to long and painful sacrifices. The royalists are still in possession of some of the finest provinces of La Plata. The interior provinces of the vice royalty of Lima are still in the hands of the royalists; were, I should have said, for it is reasonable to expect that the example of the capital will be followed by the provinces. Chili, agitated for some time by civil dissensions, and overrun by the army of the royalists, has at length established tranquillity at home; and not only driven out the invaders,

but carried the war successfully into their stronghold. The revolution in Lima is due to the efforts of this brave people. Mexico, where the revolution commenced at an early period, and where, after a desperate struggle, it appeared to be quelled, is now independent. The spirit of the revolution continued to exist among the people. Hidalgo, and the gallant men who fell in the first revolutionary movement, did not perish in vain.

To prove the utter inability of Spain to recover possession of these countries, it is only necessary to take a view of their vast extent, of their population and resources, and to compare them with those of Spain, agitated as she now is, by intestine commotions, and, for many years past, regarded as the country of Europe the most destitute of industry, of commerce, and of enterprise. The mere recital of the names which distinguish the Spanish colonies in America, extending over 79 degrees of latitude, with a space of at least 1900 leagues, interposed between its most distant settlements; the vast extent of their mountains, their magnificent rivers, the varied productions of the soil, the riches of their mines, impress us at once with the magnitude of their resources. Buenos Ayres, comprising the finest provinces of Peru, the rich mines of Potosi, and the fertile province of Cochabamba, with a population of one million and a half; coining annually upwards of five millions of dollars, exporting ten millions, and importing about the same amount. Chili, the garden of the world, possessing the most fertile soil, productive of all the fruits of Europe and of the tropics, equally rich in the precious and in the useful metals, with a population of more than one million, coining three millions of dollars annually, exporting four millions, and importing more than three millions. Lima, I mean the Vice Royalty of Lima, including Cusco, the ancient capital of the Incas, with a population of 1,200,000 souls, coining annually five millions of dollars, importing ten millions, and exporting thirteen millions. New Granada, containing not less than two millions of inhabitants, with a trade of more than six millions of imports, coining annually three millions of dollars. Caracas, with a million of inhabitants, and about the same resources as New Granada. These two countries have since been united under one Government, the Republic of Colombia. Guatemala, the country which comprises Costa Rica, and Nicaragua, and bounds on New Granada, a fertile and well cultivated country, containing one million and a half of souls. New Spain, or Mexico, contained in 1808, a population of five millions, nine hundred thousand, a population not likely to have been diminished since that period. Coining at that time twenty-three millions of dollars annually, importing twenty millions, and exporting between twenty and thirty millions. The detached Governments, contained nearly a million of inhabitants, making an aggregate of fifteen millions.

I will not detain the Committee by going into an examination of the resources of each particular State. It will be sufficient for my purposes to particularize those of Mexico. The whole annual

agricultural product of Mexico was estimated at twenty-nine millions of dollars. The annual product of the precious metals at twenty-three millions; the annual product of the manufactures at eight millions; the exports at twenty-two millions; the imports at twenty millions; the revenue of Mexico, for customs and taxes, amounted to not less than twenty millions.

If, says Baron Humboldt, the political strength of a nation depended only upon the extent of country, and number of inhabitants, New Spain might rank with the United States. Such was the state of these countries under all the disadvantages of the colonial system, for I have purposely taken the statement previous to the revolution. Thus we see that the total population of the Spanish colonies exceeded fifteen millions; the imports were never less than sixty millions, and the exports seventy.

The estimated population of those countries is more likely to fall short of the truth, than to exceed it. The census was taken for the purposes of taxation, which induced the inhabitants to conceal their real numbers. And here let me remark, that this population is more effective, and the proportion of whites greater than has been generally supposed. The most favorable statement ever published of the population of Spain, previous to the late wars, made it amount to 10,409,879. A population much thinned by wars, and pestilence, and famine, within the last ten years. The exports of Spain amounted to about sixteen millions of dollars, and the imports to between fourteen and fifteen millions. Let me ask then, whether it is probable that Spain, with not quite two-thirds the population, with inferior resources at all times, and those much diminished by this defection, can reconquer countries at a distance, some of them of two thousand leagues, and none less than one thousand? The history of Spain herself is an answer to this question. With a courage and energy that a determination to be free alone could give, Spain repelled the hosts of France that invaded her territory; weak in numbers and resources when compared to France, they successfully resisted the utmost efforts of that Power to subdue them. One word, sir, on this subject. It is too much our custom to speak contemptuously of this brave and high-minded people; they were long bowed down by an iron despotism. But other days have dawned on that fair country; after resisting with unexampled resolution, foreign usurpation, they have resolved to be free. Their sufferings from the vices and defects of long servitude, ought to excite our sympathies, and their efforts to establish free and liberal institutions, entitle them to our respect.

It has been supposed by some, that the independence of these colonies would injure the prosperity of the United States; possessing a more fertile soil, and raising the same productions, they would drive us from the markets of Europe. It has been said that colonies are safer neighbors than free States, and that so long as they were bound down by the oppressive restrictions of Spain, they would neither be dangerous rivals nor formidable competitors. It is unwise, therefore, in us to offer them

any encouragement. Not only the best feelings of the heart revolt at such a conclusion, but it is manifestly false; it is our interest that they should be free. With an extensive line of coast, with numerous navigable rivers, facilitating their internal trade, with a population of more than fifteen millions, almost without manufactures, with a demand for one hundred millions of dollars, and without the means of carrying on their foreign commerce, these countries present a market for the skill and industry of our merchants, which promises the greatest advantages. Let any one look back and observe how the demand has every where increased with the increasing produce.

The wars and revolutions which have lately afflicted Europe, are known now only by their beneficial effects. Effects to be seen in the amelioration and extension of their agriculture, in the increase of their towns and villages, in the augmentation of manufactures, in the benefits of education, the desire of freedom, and in the general welfare and prosperity of the country. It is impossible to pass through any part of Europe, at present, without being struck with the improved condition of the people. An improvement which, as it advances, will augment the demand for all the productions of the West. The intercourse of the provinces of Spanish America with these countries, will augment their means of information, and will enlighten them on the subject of government, on public welfare and private happiness. With the increase of knowledge, will arise free and well-organized institutions, the refinements and various wants of civilization. This cannot fail to produce a demand for all the manufactures of this country, and for all the objects of trade. I had intended to have entered, fully, into the importance of our political relations with these countries. I fear, however, that I should exhaust the patience of the Committee were I to attempt it; and I feel that I should exhaust my own strength. I am compelled, therefore, however reluctantly, to waive this part of the subject. The question for the consideration of the Committee is, whether we shall now adopt a measure called for by every motive of feeling and of policy, at a moment when it may give us weight and influence in those countries; a measure by which we shall at once assume the station that becomes our character, among the great Republics of this hemisphere; or whether we shall wait the slow and unwilling consent of Spain, or the uncertain policy of the other Powers of Europe.

The latter have refused to co-operate with us. It does not accord with their avowed principles to countenance any resistance against the abuse of power, however flagrant and unjust. In all ages, Spain has been slow to acknowledge the independence of those countries which have been driven to rebellion by her oppression. It is not probable that she will pursue a different policy with regard to her colonies in America. In this particular, and in this alone, I differ from the report now under consideration. It proves incontrovertibly the right and the expediency of adopting the measure recommended by these resolutions.

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It is a clear and convincing argument, highly honorable to the committee, and, as I entertain great deference for their opinion, it is with reluctance I differ with them in this particular. The committee think it manifest, from the report of the Committee of the Cortes, "that Spain had 'not only renounced the feelings of an enemy towards the colonies, but had been prepared, a year ago, to consent to their independence, but for 'particular occurrences.' They are led to this conclusion from the terms in which the committee speak of "the measure demanded by the crisis, as 'one indicative of a new and glorious resolution ; 'that it was demanded by America and by the 'true interests of the Peninsula ; that, from it 'Spain might reap advantages, which otherwise 'she could never expect ; and that the ties of kindred and the uniformity of religion, with commercial relations and those emanating from free institutions, would be the surest pledge of mutual 'harmony and close union."

I agree with the committee, "that no measure short of a full recognition of unconditional independence could have deserved the character nor been capable of producing the effects ascribed to it." But, sir, what say the documents on your table? The American deputies, disappointed in their expectations, presented propositions, in substance, Mr. Brent tells us the same as those that at first met the approbation of ministers, and which would have been adopted, but for particular occurrences. These propositions contain no demand for an acknowledgment of independence; but merely for permission to establish an internal administration, dependent upon the mother country, freedom of commerce and equal rights with European Spaniards. This was, in substance, the measure first proposed by the committee of Cortes, and which was subsequently rejected by the king, "as a violation of the Constitution ; that public opinion was not prepared for it, that it was against the interests of Spain and of America." Something less favorable must be intended by the king, when he says that "his Government, urged by the Cortes, to propose the measures they may think most proper for their welfare, or a consideration of the state of these countries, they will do so immediately, and with the utmost generosity." No, sir. The recognition of the independence of the Spanish colonies would be opposed both by the interests and by the prejudices of the Spanish nation. Independently of the revenue derived by the Crown from those countries—a revenue of more than eight millions of dollars—the patronage they afforded was immense. Places in Spanish America were the reward of services and the means of corruption. The aristocracy, who profited by those places, and who regarded them as the means of maintaining their splendid establishments in Europe, will abandon, with reluctance, the prospect of wealth America presented. The clergy will exert their influence to prevent it. America was to them a source of ambition and of profit. The possession of America extended their spiritual dominion and augmented their temporal wealth. The merchants, who, by a code of laws framed in

the spirit of restriction and oppression, monopolized the trade of the colonies, will oppose their recognition ; and the people generally will not consent to relinquish, without a desperate struggle, the dominion over the colonies, connected, as it is, with their most pleasing recollections of national honor and glory.

It is in vain to say that they are really independent. The Spaniards will not abandon all hope of recovering possession of them until they are recognised by the Powers of Europe. It is well known that there are many of the former inhabitants of St. Domingo, now in France, who still cherish the hope of being restored to their estates in that island.

These motives will operate powerfully upon the Spanish nation, and, it is to be feared, will not only prevent their recognition of the independence of these countries, but lead them to view this measure, on our part, as an unfriendly, perhaps as a hostile act. They certainly have no right to do so according to the laws and usages of nations. But the resentment of wounded pride is not always restrained by considerations of national law.

But, sir, this risk, even if it were less remote, ought not to deter us from adopting the resolutions on your table. It is a measure called for both by justice and policy. The conduct of the Government, in relation to this contest, has given the best evidence of our respect for the rights of Spain. So long as that nation made an effort to recover her dominion over her colonies, the United States abstained from recognising their independence. But now, when all opposition has ceased on the part of Spain ; now that those countries are free from the intestine commotions which divided them into factions, and rendered it difficult to distinguish which was the legitimate government, it would be unjust to withhold it.

I hope, therefore, the Committee will adopt the resolutions now under consideration. It is due to the rights of the free and independent Governments that expect it at our hands, and due to our own character and station.

Mr. RHEA and Mr. NELSON, of Virginia, delivered their sentiments, generally in favor of the propositions before the House.

The Committee then rose, and reported to the House their agreement to these resolutions.

The question being about to be put on agreeing to the first resolution—

Mr. TUCKER, of Virginia, objected to the phraseology of the resolution, and proposed to substitute the word "nations" for "provinces," where it occurs.

Some other member mentioned the word "Governments" as proper, and Mr. TUCKER so varied his motion.

Mr. RUSSELL had no particular partiality, he said, for the phraseology of the resolution, but he objected to the word "Governments," because, according to our system, the word "Government" is different in meaning from the word "nation." He would not himself acknowledge any nation to have a free and independent government which is not a government of the people.

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After some further conversation, in which Messrs. WOOD, WRIGHT, RHEA, TUCKER, and H. NELSON, bore part, Mr. TUCKER varied his motion so as to make the resolve read, "the late American provinces of Spain;" which amendment was agreed to.

The question was then taken by yeas and nays, on agreeing to the said first resolution; and the yeas and nays thereupon stood—yeas 167, nays 1, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Allen of Tennessee, Archer, Baldwin, Ball, Barber of Connecticut, Barber of Ohio, Bassett, Baylies, Bayly, Bigelow, Blackledge, Blair, Borland, Breckenridge, Brown, Buchanan, Burrows, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Caesedy, Chambers, Cocke, Colden, Condict, Conkling, Conner, Cook, Crafts, Cushman, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gist, Gross, Hall, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hill, Hobart, Holcombe, Hooks, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Keyes, Kirkland, Lathrop, Leftwich, Lincoln, Litchfield, Little, Long, Lowndes, McCarty, McCoy, McDuffie, McLane, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Virginia, Newton, New, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Massachusetts, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stevenson, Stewart, Stoddard, Swan, Tatnall, Taylor, Thompson, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Walworth, Warfield, Whipple, White, Whittman, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, Wood, Woodcock, Woodson, Worman, and Wright.

NAY—Mr. Garnett.

So the first resolve passed unanimously, with the exception of a single vote.

The second resolution being under consideration—Mr. CHAMBERS wished that some gentleman who was conversant with the views of the committee, in relation to the subject, would explain the reasons for the particular sum that had been reported. For himself, he was not entirely prepared to say what sum ought to be appropriated.

Mr. SMITH, of Maryland, proposed to modify the resolution so as to leave it optional with the Committee of Ways and Means to report a specific bill, or to include the amount in a general appropriation.

The motion was opposed by Mr. NELSON, of Virginia, and Mr. TRIMBLE, who were unwilling to alter the resolution as recommended by the committee, and preferred that this should be disconnected from any other appropriation.

Mr. SMITH remarked that his only view in making the motion, was to get at the object of the friends of the measure more readily than could perhaps be done, by a special bill for this purpose. But, in conformity with the wishes that had been expressed, he withdrew the motion.

The question was then put upon the second resolution, and carried unanimously.

And then, on motion of Mr. H. NELSON, the House adjourned.

FRIDAY, March 29.

As soon as the Journal of yesterday's proceedings was read—

Mr. EUSTIS addressed the Chair and stated that he was necessarily absent yesterday when the vote was taken on the resolution relative to the recognition of the independence of the late provinces of Spain in South America, and that he wished to record his vote thereon.

On this proposition the unanimous consent of the House was required, to dispense with the rule which provides that no member shall be entitled to vote on any question who was not within the bar of the House when his name was called; and some conversation took place on the expediency of granting the leave asked for—in the course of which,

Mr. TAYLOR quoted the case of the Declaration of American Independence, to which were affixed the names of several members who were not present when the same was agreed to, but came in afterwards and were allowed to subscribe it. The case now before the House, if not analogous, was as little likely to be drawn into precedent as that.

Mr. COCKE quoted the case which occurred yesterday—in which, a member coming in after his name had been called, was yet allowed by unanimous consent to record his vote as though he had been present. On this occasion, Mr. C. contended, the same liberality ought to be extended to all who were absent.

These considerations prevailed with the House, and, by unanimous consent, leave was granted to Mr. EUSTIS, and Messrs. REID, DICKINSON, MATLACK, McDUFFIE, NEW, SCOTT, and EDDY, for similar reasons, and they severally voted in the affirmative, when the vote was declared to be—yeas 167, nay 1.

Mr. WRIGHT requested a similar liberty to Mr. REED, of Maryland, who was necessarily detained by sickness, but it was decided by the Chair to be impossible to grant such liberty to a member not present.

Mr. COOK, from the Committee on the Public Lands, reported a bill for the relief of Benjamin Stephenson; which was read twice, and committed to a Committee of the Whole.

Two Messages, received from the PRESIDENT OF THE UNITED STATES yesterday, were read as follows, viz:

To the House of Representatives of the United States:

I transmit the original reports on the subject of the fortifications on Dauphin Island and Mobile Point, being those on which the works were undertaken, and

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have been in part executed. The doubt expressed as to the propriety of the publication is applicable to this document, which would have accompanied the Message of the 26th, had it been prepared in time.

JAMES MONROE.

WASHINGTON, March 28, 1822.

The Message and report were referred to the Committee on Military Affairs:

To the House of Representatives of the United States :

In compliance with a resolution of the House of Representatives, of the 1st instant, requesting "the President to communicate such information as he may possess relative to any private claim against the piece of land in the Delaware river, known by the name of the Pea Patch, and to state, if any, and what, process has been instituted in behalf of such claim," I herewith transmit a report from the Secretary of War, furnishing the information required.

JAMES MONROE.

WASHINGTON, March 8, 1822.

The Message and report were referred to the Committee on the Judiciary.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting sundry statements in relation to the receipts and expenditure of the Government, and of appropriations, and unexpended balances of appropriations, at sundry periods, as called for by the resolution of this House, on the 13th ultimo; which letter and statements were ordered to lie on the table.

The House then resolved itself into a Committee of the Whole, on the bill for the relief of William E. Meek, and on the bill for the relief of Cornelius Huson, which were respectively reported to the House without amendment; and the bills were ordered to be engrossed for a third reading.

GRADUAL INCREASE OF THE NAVY.

Mr. McLANE, from the Committee on Naval Affairs, who were instructed, by resolution, "to inquire into the expediency of modifying the act, entitled 'An act for the gradual increase of the Navy of the United States,' so as to require a part of the annual appropriation to be expended in the construction of vessels of an inferior force to those now authorized by said law to be built," made a report thereon; which was read and ordered to lie on the table.

Mr. McLANE, from the same committee, also reported a bill to fix and render permanent the Naval Peace Establishment of the United States; which was read twice, and committed to the Committee of the Whole on the state of the Union. The report is as follows:

The Committee on Naval Affairs, to whom was referred the resolution of the House of Representatives of the 4th instant, instructing them to inquire into the expediency of modifying the act, entitled "An act for the gradual increase of the Navy of the United States," so as to require a part of the annual appropriation to be expended in the construction of vessels of an inferior force to those now authorized by said law to be built," make the following report:

That, by the act above referred to, passed the 29th April, 1816, the sum of one million of dollars per annum was appropriated for the gradual increase of the

Navy of the United States; and the President of the United States was authorized to cause to be built nine ships, to rate not less than 74 guns each; and twelve ships, to rate not less than 44 guns each, including one 74 and three 44 gun ships, authorized by a previous law. The President was also authorized to procure steam engines and all the imperishable materials necessary for building and equipping three steam batteries; and by the 4th section of the act, it was provided that "the moneys appropriated by this act shall not be transferred to any other object of expenditure." By the act of 3d March, 1821, instead of the appropriation contained in the original act, the sum of \$500,000 per annum, for six years, was appropriated to carry into effect the purposes of the said act; and that the whole of this sum will be required to complete the objects contemplated by these acts. That, pursuant to the instructions and objects of these laws, there has been built and equipt one ship-of-the-line, viz: the Columbus; and that there has been built and launched three ships-of-the-line, viz: the Ohio, the North Carolina, and the Delaware, and one frigate at Washington, the Potomac; that there is now on the stocks, built and ready to launch, one ship-of-the-line at Boston—that there are now on the stocks, nearly finished, one ship-of-the-line at Portsmouth, New Hampshire, one frigate at Philadelphia, and one frigate at New York—that there is on the stocks, about half finished, one ship-of-the-line at Gosport, Virginia—that preparations have, for some time past, been making, for putting on the stocks one ship-of-the-line at Boston, one frigate at New York, one frigate at Portsmouth, New Hampshire, and one frigate at Washington, and that the frames, and nearly all the timber, and other materials have been provided for building one ship-of-the-line at Philadelphia, one frigate at Washington, one frigate at Boston, and one frigate at Norfolk—that the live oak frames, and nearly all the other timber, and two steam engines, have been provided for two steam batteries at New York, and one steam battery at Washington. The committee further report that the articles on hand, and those contracted for, could not be advantageously applied to the building of vessels of a smaller class than those for which they were provided and designed. "The frames of our ships-of-the-line are all got to moulds; each particular piece has its appropriate place in the frame," and the labor of reducing them to a size suitable to smaller vessels would be nearly, if not quite, equal to the expense of a new frame. The copper provided, too, is generally heavier than is used for sloops of war.

In the opinion of the committee, the frames being cut to moulds, which, being the cheaper and better plan, the commissioners of the Navy, with a due regard to the before recited acts, were authorized to direct, there would be great risk of losing them entirely, by their warping out of place, if they are not put together.

The committee are of opinion, also, that the funds appropriated for the gradual increase of the Navy, cannot be diverted to any other objects, consistently with good faith, or the real interests of the nation.

The policy was adopted upon great consideration, and with a view to the defence of our seacoast, and in a well founded conviction that it was wise and prudent gradually to increase our naval force in time of peace, and to render it efficient in the exigencies to which the country must be always more or less exposed. It is believed that the best defence for this country, and that on which it must principally rely,

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not only for the protection of our commerce, but to prevent the actual invasion of the soil, is the naval force. The act for the gradual increase of the Navy was founded on this presumption, and designed by gradual means, in a manner least oppressive to the country, to lay the foundation of an efficient naval power, and to prepare, in time of peace, that description of force, which could not be easily raised up in time of war, but which would be indispensable in such a crisis. It requires much time and great care to prepare the materials, and construct the vessels of the class provided for in the acts, and the experience of the late war has fully demonstrated the necessity of such a force; by teaching us the facility with which the enemy could blockade a large portion of our coast with a single ship-of-the-line.

The committee are of opinion that it would be unwise to change this system, founded upon so many important considerations, without some urgent necessity, and in their opinion none such exists; on the contrary, there seems to be even stronger reasons for adhering to the policy, and cherishing the growth of our naval power, now that foreign nations are modeling their naval architecture after our improvements, and at a moment when our foreign relations are about to be extended, upon a scale which should, at least, admonish us against any diminution of, or an indifference to the means of national defence.

The committee are aware of the importance of sloops of war, as a class of naval force, indispensable both in time of peace and war; but they are a class which may be provided in a shorter time, and with considerable advantage, even after the exigency has arisen, and, though they would be useful in time of peace for many services, and especially for the discipline of our officers, and the more effectual suppression of the piratical marauders upon our commerce, the committee believe it would be unwise to break in upon the fund for the gradual increase of the Navy, even for such objects; and, therefore, recommend the adoption of the following resolution:

Resolved, That it is inexpedient to modify the act, entitled "An act for the gradual increase of the Navy of the United States," so as to require a part of the annual appropriation to be expended in the construction of vessels of an inferior force to those now authorized by the said law to be built.

INSPECTION OF LAND OFFICES.

Mr. McLANE, from a select committee, delivered in the following report; which was read, and ordered to lie on the table:

The committee, to whom was referred the several communications from the Secretary of the Treasury, of the 28th of January, and 18th of February, 1822, in obedience to several resolutions of the House of Representatives of the 4th of January, and — February, 1822, respecting the manner in which the several land offices have been examined, by whom examined, and the moneys paid for such examination, &c.; having examined the subject submitted to them with great deliberation, make the following report:

That, by the laws of the United States, it is made "the duty of the Secretary of the Treasury to cause, at least once every year, the books of the officers of the land offices to be examined, and the balance of public moneys in the hands of the several receivers of public moneys of the said offices to be ascertained." That, previous to the year 1816, this examination had

been made by persons residing in the vicinity of the respective offices; but, in progress of time, the augmentation in the receipts of these offices rendered more information necessary, and gave an importance to the examination which it had not previously possessed. These circumstances proved the inadequacy of the old system, and, in 1816, induced the late Mr. Dallas, then Secretary of the Treasury, to direct the examination to be made by one of the clerks of the General Land Office, who was also permitted to make a similar examination in 1817; and received for his services, in each year, at the rate of three dollars per day, in addition to his salary as clerk. That, since the year 1817, the examination has been made by persons disconnected with the Department, and who have received for their services at the rate of six dollars per day, and six dollars for every twenty miles travel.

That, in the year 1824, Jesse B. Thomas, Esq., a Senator of the United States, from Illinois, was permitted by the Secretary of the Treasury to examine the offices in Ohio, Indiana, Illinois, and Missouri, for which, as appears by the documents before the committee, he received a sum amounting to the allowance which has been established since the year 1817. That the principal inducement to permit the said Jesse B. Thomas to make the examination, as stated by the Secretary of the Treasury, appears to have been an expectation that he would be enabled to secure to the United States a large amount of public money in the Bank of Vincennes at the time that bank stopped payment, which service he performed, and for which he has not received or demanded any compensation.

Although the committee consider the duty of suggesting or recommending any alteration in the mode of examining the land offices, to be properly within the province of the Committee on Public Lands, to whom this part of the subject naturally refers itself, they are nevertheless free to declare it as their opinion, that the public interest does not require any change in the mode which has been pursued since the year 1817.

The committee presume, however, that this was the least important object of the reference of the subject to them; and that the design principally was, that they should consider and report upon the effect of permitting Jesse B. Thomas, Esq., a Senator of the United States, to examine the said offices, in 1821, in which it has been supposed that both the Constitution of the United States, and the act of Congress "concerning contracts," passed the 21st of April, have been violated.

Although the committee freely admit the power and jurisdiction of the House of Representatives to guard the purity of our institutions from violations, which it is the peculiar province of Congress or of the people to punish or remedy; they cannot recognise either its justice or dignity in conducting *ex parte* investigations into breaches of highly penal statutes, and the commission of misdemeanors amenable by the laws to a different tribunal. Such precedent might lead, in worse times, to consequences of a ruinous and most troublesome character. They might be used to authorize Congress to become the expositors of their own laws, or improperly to throw the weight of their opinion into the deliberations of the legitimate tribunals. They would be very apt to be seized upon to produce a public excitement, and be perverted to the purposes of ambitious men and individual resentments.

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At the same time, the committee would not be understood as ascribing the present investigation to such motives, and, as well on this account, as from a just sense of the policy of our institutions, and the character of the individuals concerned, they submit to the House the general views which they are constrained to entertain.

The committee are clearly of opinion that the examination of the land offices by Jesse B. Thomas, Esq., was not a violation of the Constitution of the United States.

That instrument forbids the appointment of members of Congress, during the time for which they were elected, to any civil office, created, or the emoluments whereof shall have been increased, during that time; and, also, prevents any person holding an office under the Government from being a member of Congress during his continuance in office.

The object was to take from Congress the means or inducement of creating place or emolument for themselves, and thereby guard the rights and interests of the people from the encroachment of Executive power. The committee are the advocates of this policy, and would be the last to weaken its influence in the Government. But the case of Mr. Thomas is clearly not within the words or the spirit of the first, and if it could be considered as embraced in the latter clause, his appointment would, nevertheless, be Constitutional, since only the holding incompatible offices at the same time is prohibited, with which idea the daily practice of the Government, from its organization, is in strict conformity. In fact, the Congress of the United States has hitherto been the theatre on which the ablest men of our country have become distinguished for their virtue and intelligence, and recommended themselves to the highest honors and places in the Government. The same theatre has matured their experience, and conducted our greatest statesmen to the Executive and Judicial Departments at home, and to foreign Courts abroad, with equal advantage to the ornament and real interests of the nation.

If, therefore, there could be such an incompatibility as is imagined, it would then resolve itself into the question, whether Mr. Thomas, by accepting the appointment, had vacated his seat in the Senate, and with that body your committee would, in that case, be disposed to leave it.

But your committee are of opinion that the duty of examining the land offices is not such an office as was contemplated by the Constitution of the United States, which opinion seems to have received the sanction, and regulated the practice, of the Government since the adoption of the Constitution, by those who bore a principal share in composing it; and must, therefore, be supposed to have understood its real import.

The committee refer to the appointment of Mr. Tracy, a Senator of the United States, by President Adams, in the year 1800, to inspect the posts on the northern and northwestern frontier. For this service, Mr. Tracy received a liberal compensation, and extra mileage, which is stated on the records of the Senate of that day. Under the Administration of Mr. Jefferson, Mr. Dawson, a member of the House of Representatives, from Virginia, was appointed as the bearer of a treaty to France, and was paid for performing the duty; and during the Administration of the same President, Mr. Smith, a Senator from Tennessee, was appointed a commissioner to treat with the Indians, and actually executed two treaties under this appoint-

ment. They also refer to the instance, at a still more recent period, during the Administration of President Madison, of the appointment of Mr. Worthington, a Senator, and Mr. Morrow, a Representative, from Ohio, to negotiate with the Indians. In each of these cases, the individuals referred to executed the trusts confided to them, still retained their seats in Congress; and, in the Senate, passed upon their own acts. The committee content themselves with these instances, without enumerating others, as affording a clear exposition of this clause in the Constitution.

The act of Congress, which it is supposed has been violated by permitting Mr. Thomas to examine the land offices, was passed the 21st April, 1808, and is entitled "An act concerning contracts."

The first section provides that, from and after the passage of this act, no member of Congress shall, directly or indirectly, himself, or by any other person whatsoever in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy, in the whole or in part, any contract or agreement hereafter to be made or entered into with any officer of the United States, in their behalf, or with any person authorized to make contracts on the part of the United States; and further imposes a penalty on any member of Congress so offending.

The act further provides, "that if any officer of the United States, on behalf of the United States, shall, directly or indirectly, make or enter into any contract, bargain, or agreement, in writing or otherwise, other than those therein excepted, on conviction thereof shall be guilty of a high misdemeanor, and fined in the sum of three thousand dollars."

The 5th section provides, that "after the passing of this act, it shall be the duty of the Secretary of the Treasury, Secretary of War, Secretary of the Navy, and Postmaster General, annually, to lay before Congress a statement of all the contracts which have been made in their respective departments during the year preceding such report," &c.

Without meaning to pronounce any opinion, whether a court of justice would so interpret the law as to be applicable to the case of the examination of the Land Office by Mr. Thomas, the committee are aware that the words are extremely broad, and, if such could be supposed to be their true intent and meaning, would be capable of embracing every imaginable case in which a member of Congress could be called to perform any duty, or render any service in behalf of the United States, and which, by any possibility, could be termed "a contract, bargain, or agreement."

They could especially be extended to the appointment to negotiate treaties, whether the member should afterwards resign or not; to the appointment of printers to publish the laws of the United States; and to the employment of counsel in causes in which the United States have an interest—than none of which, it is apprehended, is the duty of examining the land offices more plainly within the scope of the words. But, by the contemporary practice which occasioned the law, and which followed its enactment, among those who were liable to its provisions and always disposed to comply with its terms; who either aided in making, or lived and were familiar in the times and circumstances in which it was made, and were conversant with the men and their objects, by whom it was passed; it has received a different construction, and has never been considered as prohibiting any of the employments above enumerated.

From the organization of the Government, down to the passing of the law in 1808, it had been usual to give such appointments to members of Congress; and though in the case of Mr. Tracy his demand for mileage was not deemed reasonable, neither the legality nor policy of the usage had ever been questioned. But, in the years 1807 and 1808, John Smith, a Senator from Ohio, had entered largely into contracts with the War Department for supplying the Northwestern army; and Matthew Lyon, a Representative from Kentucky, had numerous contracts with the Postmaster General for carrying the mail. These contracts had produced considerable excitement in Congress, where their influence had been manifested; and especially the former, under the supposition that John Smith had become connected with the schemes of A. Burr, and used his contract to subserve them. After a fruitless attempt to expel him from his seat in the Senate, the law in question was passed. From the date of this law, all contracts of the nature of the two last ceased to be given to members of Congress; while all other trusts and agencies, as before referred to, continued to be given, and the returns from the different departments made accordingly, without serious complaint.

The appointment of Mr. Worthington and Mr. Morrow (both active in their respective places in passing the law of 1808) as commissioners to negotiate with the Indians, was made very soon after the law was passed, and by President Madison, who was Secretary of State at the time of its enactment, and could no more be supposed to be ignorant of its general objects than disinclined to obey its injunctions in their true spirit and meaning.

It is believed by the committee that the late William Pinkney was employed as counsel in behalf of the United States, while he was a member of the House of Representatives from Maryland, and argued some causes in the Supreme Court, and received a liberal compensation for his services.

It appears too that in 1818, upon the occasion of certain complaints made at the office of the Secretary of the Treasury against a receiver of public moneys at Vincennes, the present Chief Magistrate of the United States directed the Senators from Indiana to investigate the subject; and though the investigation did not proceed, one of the Senators who lived at a distance, and attended for the purpose, was afterwards allowed his travelling expenses.

On another occasion, (in the year 1819,) the Hon. Benjamin Ruggles was directed to aid the Superintendent of the Cumberland Road in taking proper security from the persons entering into the contracts, and received from the Superintendent seventy-two dollars for his services.

In the Department of State there exist few occasions for giving a construction to this law "concerning public contracts:" though in this Department the employment of a member of Congress (being the editor of a newspaper) to print the laws of the United States has not been considered by John Quincy Adams, Esq., "or by his predecessors, as prohibited by the act of Congress, or as coming at all within its purview." Accordingly, your committee find that James J. Wilson, Esq., a Senator from the State of New Jersey, and the editor of the *Trenton True American*, was employed to print the laws during the time he was Senator, from 1815 to 1821, and from the year 1804.

In the Navy Department, the committee have heard of no particular cases, or of any particular practice, other than that arising from the annual returns under the fifth section, which are exclusively confined to contracts for *work and supplies*.

The committee believe it to have been usual in the War Department, also, to employ members of Congress as counsel in behalf of the United States; and they refer particularly to the instances of Mr. Baldwin of the House of Representatives, and of Mr. Rodney of Delaware, of the Senate, employed and paid as counsel under the direction of the present Secretary of War.

The committee refer, also, to the case of a member of the House of Representatives, in the present Congress, who is employed, under the authority of the War Department, as the superintendent of a fortification of the United States, for which he receives an annual compensation.

Upon these instances the committee forbear any comment; proceeding to remark, however, that in this practical construction, there has been an uniformity, which could scarcely have resulted from any thing else than a universal impression of the real meaning of the law. By the fifth section it has been perceived that the Secretary of the Treasury, Secretary of War, and of the Navy, and the Postmaster General, are directed to make annual statements to Congress, of such contracts, made in their respective departments, as are comprehended in the law. But in none of these returns, which have been annually made, are included any of the cases enumerated, *whether the service had been performed by a member of Congress, or any other person*, and under the idea that these were not of the description of contracts to which the law had reference, the returns embrace only contracts for labor, for furnishing supplies, and for carrying the mail; and it is also worthy of observation, that, though this fifth section designs to compel a return of all contracts within the law, it does not require any such return from the Department of State, in which, though it is true no such contracts as gave rise to the law are ever made, it has, nevertheless, an extensive patronage, a part of which is that of authorizing the publication of the laws, which may be dispensed to members of Congress, and as we have seen, falling clearly within the general scope of the words of the law of 1808. Neither has it been usual, or deemed necessary, to make a record in either of the Departments, of any such instances, whether the service was performed by a member of Congress, or others, pursuant to the law, requiring all contracts made by the respective Departments, in behalf of the United States, to be recorded.

The committee do not wish to be understood as referring to these instances, and to this course of practice, to justify or excuse an error in one Department, by detecting similar abuses in others; nor as affording an interpretation which, if erroneous, should have the force of judicial decision; but merely as the means by which the subjects and meaning of the law may be ascertained, as illustrative of the sense in which its provisions have been received and understood by the most distinguished statesmen, and the ablest constitutional lawyers of the country, and by the common consent of all whose duty it was to obey them.

They refer to them, as demonstrating a contemporaneous practical construction, which has prevailed, without concert, in all of the Departments, and to which an officer, entering an office long after the con-

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struction had become adopted, might naturally conform his conduct.

On the whole, the committee have seen nothing in the case submitted to them, which can lead to the presumption, that either of the individuals concerned had any intention either to violate the provisions of the law, or to abuse or disregard the spirit and policy of our institutions.

They are of opinion that the employment of Mr. Thomas to examine the land offices originated in a desire honestly to discharge an important public duty; that the peculiar importance of the trust at the time, and the character and elevation of the individual employed, were calculated rather to invite than forbid the selection. Nor have the committee any reason to believe that the duty has not been faithfully performed, and in a manner conducive to the public good.

Under these circumstances, and with such impressions, the committee do not deem it necessary to single out this case for particular animadversion, or to pronounce upon the comprehensiveness or precise import of the act of 1808. They content themselves with referring to the construction which it has uniformly received in practice, and to the conviction that the public good, and not any sinister or improper purpose, was intended; and they therefore recommend the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

Mr. Cook stated, that it was due to himself and to the committee to say, that the committee were not unanimous in agreeing to the report, and to express the views which he personally had of this subject, which he considered, in some points of view, as of great importance, he offered a counter-resolution, which he requested might accompany the report, and be laid on the table with it.

Mr. McLANE said he was sorry that, on the present occasion, the gentleman from Illinois had thought it proper to deviate from the usual practice on making reports, in stating, as he had done, that there was a division in the committee on the subject of the report. An obvious objection to such a proceeding was, that each member of the committee might feel himself called upon to say how he had voted, if any one of the committee did so. He believed, he said, that he should be authorized in saying that the honorable gentleman himself was the only one of the committee who disagreed to the resolution now on the table. Mr. McL. did not think this course to be the proper one to be pursued. It would be an encroachment on propriety to suffer a committee to make a report, and accompany it with another report, which might possibly be of a very different tendency. The object of the gentleman, besides, could be as well attained by moving his proposition in the shape of a separate and distinct resolution, as in the way he proposed.

The SPEAKER, deprecating the debates growing out of incidental questions, uselessly consuming the time of the House, pronounced his decision, that nothing can be received as the act of a committee but what is the report of a committee, and that a committee can make but one report. Nothing, therefore, but the report of the committee was now under consideration. He adverted to the fa-

mous case of the Seminole war, in which a counter report had been offered by one of the committee, and received by the House, but he considered it an erroneous proceeding, and not to be drawn into precedent.

Mr. MERCER concurred in the view which the Speaker had taken of this point, and added that, in the case of the Seminole war, the counter report had not been received until after considerable debate, and it was afterwards a subject of general regret that it had been received at all.

Mr. Cook said, he was not sure he had understood the gentleman from Delaware (Mr. McLANE) correctly—but, repeating what he had said when before up, Mr. C. now justified it. It was no new thing for it to be announced, on the presentation of a report, that the committee was divided in relation to it. He quoted the example of the case of the report at the last session on the admission of Missouri into the Union. He did not know whether the member from Delaware meant to intimate that he had made an incorrect statement or taken any undue advantage. He would rather abandon his seat—he would rather never have set foot in this House, than do a dishonorable act, or even an act of unkindness to any of his fellow-members. He deemed it a matter of importance even to the persons about whom, on this subject, so much had been said, to frankly present to the House his views, that no man should be taken by surprise in voting on a question deeply connected with the purity of the legislative body—

The SPEAKER here arrested the debate as going improperly into the main subject, on a question merely incidental.

Mr. McLANE disclaimed any intention, in what he had said, to alarm the feelings of the gentleman from Illinois, or impeach his motives. He considered it an act of justice to himself and to the committee to state the facts of the case, and he had done no more.

The question was taken on laying the report on the table, as moved by Mr. Cook, and carried.

Mr. Cook then submitted the following resolution:

Resolved, That the employment of members of Congress by the Executive, or any Executive officer of the United States, in the performance of any public service, during the continuance of their membership, for which they receive compensation out of the public Treasury, is inconsistent with the independence of Congress, and in derogation of the rights of the people, and, if it be not already, ought to be prohibited.

Mr. CANNON required the question of consideration of the resolution; and, that question being taken, the House agreed to consider the same.

Mr. Cook moved for a reconsideration of the vote taken upon the disposal of the resolution reported by the committee; on the ground that his object was to offer the last resolution as an amendment or rather as a substitute for the resolution reported by the committee.

A question of order occurred, in which Messrs. Cook, H. NELSON, CANNON, and TAYLOR, took

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part, when the proceedings ended in deciding to lay Mr. COOK's resolution on the table, in the same manner as the report had been; and both were ordered to be printed.

FUGITIVE SLAVES.

The House then resolved itself into a Committee of the Whole on the bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory.

The question was, on the motion to strike out the enacting clause of the bill.

Mr. F. JOHNSON was willing to legislate on the subject, but he thought this bill was calculated to introduce new and unknown rules in relation to property. Its operation was not confined to the slaveholding States, and he thought its tendency would be injurious to society, and the administration of justice. He was also opposed to it on the ground that it authorized a suspension of the right of the writ of habeas corpus. He hoped that the bill would be laid on the table, or recommitted, in order that these objections may be removed; and with that view, he proposed that the Committee rise and report; which motion was put and carried, ayes 55, noes 43.

In the House, leave to sit again was refused to the Committee; and

Mr. F. JOHNSON moved to recommit the bill to a select committee, which was agreed to; and Mr. JOHNSON of Kentucky, Mr. COLDEN, Mr. WRIGHT, Mr. NELSON of Virginia, and Mr. WILLIAMS of North Carolina, were appointed said committee.

EXCHANGE OF STOCKS.

The House then took into consideration the bill to authorize the Secretary of the Treasury to exchange certain stocks bearing an interest of six and seven per cent. for stock bearing an interest of five per cent.

Mr. SMITH, of Maryland, proposed the amendments which he had submitted some days since, and which the House had ordered to be printed, accompanied with a few explanatory observations.

Mr. COLDEN was opposed to the amendments, because he wished to strike out the words *twelve millions*, and to insert in lieu thereof *five millions*, so as to reduce the amount of stocks to be exchanged; and, also, to sell the seventy thousand shares of stock in the Bank of the United States which are owned by the Government. The amount of dividends which had been received upon the bank stock belonging to the United States during four and a half years, had been 13 per cent. for the whole period, amounting in the aggregate to \$910,000, whilst the interest on the seven millions which was borrowed to pay for that stock, had amounted, during that period, to the sum of \$1,575,000, making a loss to the United States of \$665,000. But Mr. C. stated that, from the present price of that stock in the market, \$980,000 would be gained to the United States from the surplus price of the shares above par; so that the operation of the amendments he proposed would be, as he contended, to save to the

United States \$196,000 per annum, and to put more than half a million of dollars into the public Treasury. Mr. C. entered into a variety of considerations to evince the propriety of the project he had submitted, and concluded by observing that he should vote against the bill, yet, if it should be adopted, he thought the plan which he had suggested was altogether the most expedient course that could be pursued.

Mr. SMITH, of Maryland remarked, that the gentleman from New York, (Mr. COLDEN,) had admitted that \$980,000 were obtainable from the present value of the stock above par. Nor was that all; for the Bank of the United States had performed the duties of the loan offices, which had saved the United States \$100,000 annual expense. Mr. S. proceeded at considerable length in explaining and enforcing the expediency and necessity of the measures that had been resorted to, in relation to the Bank of the United States, and he contended that the stock of that Bank had already fallen, by the refusal of one branch of the Legislature at this session to aid it; and if the seventy thousand shares belonging to the United States should be thrown at once into the market, he believed the stock would fall down to ninety, and perhaps to eighty, so that the United States would utterly fail of obtaining the expected premium. It would evince such an hostility on the part of the Government to that institution, as would destroy all confidence in the value of the stock.

Mr. COLDEN replied to the observations of the gentleman from Maryland, (Mr. SMITH.)

Mr. CAMBRELENG was in favor of the amendment, and opposed the scheme proposed by his colleague, (Mr. COLDEN.)

After some further observations of Mr. COLDEN, the question was taken on the amendments as proposed, and respectively carried without a division; and the bill was thereupon ordered to be engrossed for a third reading, ayes 79.

HORSES LOST IN THE SEMINOLE WAR.

The House again went into a Committee of the Whole on the report of the Committee of Claims unfavorable to the memorial of the Legislature of the State of Tennessee, claiming payment for horses lost in the Seminole campaign.

Mr. F. JONES moved to amend the report of the committee by striking out the word "not," so as to give it an affirmative character.

The motion was supported by the mover, and by Mr. ALLEN, of Tennessee.

Mr. ALLEN said: This claim presents itself very differently from most others which we are called upon to decide. It rests upon a positive contract between the soldier and his Government. We find the Commander of the Southern division of the Army of the United States inviting mounted volunteers to enter the service under a promise to pay them forty cents per day for their horses, and furnish them with forage and subsistence, at a time when a law existed to pay the soldiers, who had just returned from service, for their horses that had been lost on account of a failure on the part of the

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Government to forage them. The inspection roll of the Army proves that these men entered the service, and performed their duty faithfully, and were honorably discharged. It is admitted that, during a long and rapid march through a wilderness, no forage whatever was furnished. What was the consequence? Death to the horse and loss to the owner, but a gain to the Government of all that forage and transportation would have cost. If that has been done in violation of the contract with the soldier, is it not reasonable to pay the damages that accrued to the soldier who performed his part of the covenant? His claim would be sustainable in law, were the Government suable? and, because it is not, are we to reject it? I hope not; I will not agree to do so without stronger reasons than are to be found in the report of the Committee of Claims. I cannot see how the soldier's demand for his horse is at all impaired by any thing paid him for his services. He performed the duties required of him, and only received the wages promised for doing so; yet this ingenious report tells us that that payment exceeded the average value of the horses, and infers, from it, that the soldier is already overpaid. Agreeably to this mode of reasoning, if one of these soldiers had served six months longer, the Government would have had a claim against him equal to the value of another horse. If he is to be charged with his wages when he receives credit for his horse, it is evident that the longer he served the greater would be the balance against him. This may be good argument, but, in my opinion, very poor pay. There is a laboring, throughout this report, to draw the mind off from the merits of the claim, and fix it upon charges and expenditures that attended the campaign, for which the soldier is not at all accountable. After all the trouble of searching every department in the War Office, it is discovered that, out of the arms put in the hands of the volunteers, forty-nine muskets were never returned. This, I think, might easily be accounted for by looking at the number of men that never returned. The killed and wounded could not be expected to return their arms, and certainly their comrades are not to be made accountable for them. Is it believed that we are never to want another Army? If we do, does any one think we will get soldiers, if they are to be made accountable for all the expenses? Was that the course adopted during the last war? No; the mounted men then engaged, were paid for their services and their losses. These troops only ask the same measure of justice all others received. If the policy even is doubtful, is it just to change it now, and exclude a few that have been deceived by confiding in it? Certainly not. If you want the confidence of the people, remember that, next to their liberty, they claim from their Government equal justice. I hope it will not be denied to these meritorious men—soldiers, I would say, if I was not well aware that the very name of soldier sounds an alarm here, not for their valor, but for our money. Sir, these soldiers are too proud to beg. Give them justice or give them nothing.

On motion of Mr. WILLIAMS, of North Carolina,

the Committee rose and reported progress, and asked leave to sit again, which was granted.

SATURDAY, March 30.

An engrossed bill for the relief of William A. Meek, and an engrossed bill for the relief of Cornelius Huson, were respectively read a third time, and passed.

Mr. LATHROP, from the Committee of Revisal and Unfinished Business, reported a bill to revive and continue in force acts concerning the allowance of pensions, upon the relinquishment of bounty lands; which was twice read, and ordered to be laid on the table.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, reported a joint resolution assigning certain rooms for the national paintings, executed by Colonel Trumbull; which was twice read, and, by unanimous consent, ordered to be engrossed for a third reading.

SECURITY OF THE MAIL.

On motion of Mr. HOOKS, the House agreed to consider the report of the Committee on the Post Office and Post Roads, relative to the adoption of Imlay's invention for the security of the mail, &c.

Mr. F. JOHNSON proposed to modify the resolution in such manner as to authorize the Postmaster General to adopt the plan or not, at his discretion. Mr. J. expressed his doubts of the efficacy of the plan proposed, but he was willing to submit it to the discretion of that officer.

Mr. ALLEN, of Massachusetts, was also in favor of submitting the subject to the discretion of the Postmaster General.

The modification was opposed by Mr. OVERSTREET, when the question was taken thereon, and carried.

On the resolution as amended, Mr. TAYLOR expressed his opinion that the resolution ought to be joint, and he moved an amendment to that effect, which was agreed to, and the resolution was thereupon read, and committed. The resolution is as follows:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be authorized, in his discretion, to introduce, as soon as conveniently may be, on one or more of the most exposed routes, Richard Imlay's plan of copper cases, secured in iron chests, with inside locks and sliding bars, in such a way as to test its efficacy in preventing robberies of the mail: Provided, the extra expense for each mail carriage shall not exceed one hundred and fifty dollars; and to charge the cost thereof to the contingent expenses of the Post Office Department."

SOUTH AMERICAN GOVERNMENTS.

The SPEAKER laid before the House the following letter, which, by unanimous consent, was ordered to be entered on the Journals of the House.

WASHINGTON, March 30, 1822.

To the honorable, the Speaker of the House of Representatives:

SIR: Severe indisposition prevented me from attending the House on Thursday, and recording my

vote in favor of the Independence of the South American Governments; the same cause prevented me from attending the House yesterday; nor was it until the hour of adjournment that I was informed that the members who were absent when the above vote was taken, were yesterday permitted, by universal consent, to have their votes entered on the Journal. Thus circumstanced, I shall feel highly honored by the House if they will permit my name to be recorded in the affirmative on that question, by placing it with the yeas; or if that cannot be done, by placing this letter on the Journal. I have the honor to be, &c.

PHILIP REID.

Mr. GARNETT asked if it was in order to make a motion; he said he wished to make one on the subject of the vote he had given on Thursday last, on the recognition of the late South American Provinces. That it has been his misfortune, not only to differ with all his colleagues, but with the whole House on this subject; that he did not wish to recall his vote, for he was fully prepared for all the consequences that could arise from it, when he gave it; but there was one view of the subject which occasioned regret; the event of our recognition would necessarily be announced to the world, and his vote would be probably misinterpreted by the public, who might believe that he was unfriendly to the independence of the South Americas; and that he did not wish it to be believed, that there could be an American Legislator in the 19th century, who could be unfriendly to civil liberty, and the rights of man, any where. That he felt great gratification in common with the rest of his countrymen, in the success in which the struggle of the South Americans had eventuated; and that he refrained from voting to recognise them, from considerations of policy, which he wished to make known, by spreading them upon the Journal of the House, the only permanent and authentic record. This was partly a national, and partly a personal motive; but there was a secondary motive, which was entirely personal. He wished it to be known that he had not voted entirely without reflection, or from caprice or prejudice, by making known his reasons, which, whether well or ill founded, would show that he had bestowed some consideration on the subject. With this view he offered the following declaration, and moved to have it inserted in the Journal:

I voted against the recognition of the late American Provinces of Spain, not because I am opposed to their independence, on the contrary, I rejoice in its accomplishment, and believe that it would be even better for them to be independent with a worse form of government, than to be dependent with a better; but I voted against it because I am of opinion,

That recognition must be either the mere formal declaration of a fact which will be inoperative, and therefore useless, or it must be substantial, and propose some advantage to one or both of the parties—that, if it be substantial, it must be intended either to impart to the party recognised the physical means, or the moral force, necessary to accomplish their revolution, or to establish relations for the mutual benefit of both the parties concerned—that the idea of assistance, to consummate a revolution, concedes that it is not

completed, and is incompatible with the neutral obligations to the country claiming jurisdiction; and that the second alternative of mutual benefit reduces it to a question of policy, in which it is only necessary to balance the good with the evil:

That we have no right to recognise nations because they have adopted forms of government congenial with our own, if our recognition would not otherwise be proper; and, to maintain this doctrine, would be to assert the odious principle of legitimacy, that nations have a right to interfere with the internal concerns of each other, which must be beneficial or injurious, accordingly as free principles or despotism happens to prevail in the world; and that, for this reason also, the present is a question of policy, not of principle:

That, the period having past when our recognition of the independent Governments of South America could be of any substantial benefit to them; their independence being already firmly established, it is impolitic in us, for the sake of any advantages which either party is likely to derive from an intercourse at this time, to risk those we already possess:

That the European Powers do not, at present, appear to be disposed to molest them in the enjoyment of their independence; that our acknowledgment may have the effect to bring on them, as well as ourselves, the ill will of those Powers, and that, if this ill will develops itself in actual opposition, it will impose on them the necessity of maintaining a defensive attitude which will greatly retard their progress and improvement in the arts of peace and the principles of free government, whilst, by renewing the bonds of sympathy and interest between Spain and the European Powers, it will equally retard her progress towards liberty, so auspiciously began, and so desirable to the whole world to see continued:

That, although apparently, so nugatory an act as the mere declaration of a fact, to be followed by no efficient measure, ought not to excite the hostility of the European Powers, we are to consider their actual disposition towards us, which, on account of the example of our free institutions, we must know to be unfriendly; and not count on their inability to commence a contest, without making allowance for their prejudices and their folly; and that, although considerations of prudence, or the prospect of a European war, may prevent direct hostility, we should not forget that we have matters of difference with France, Russia, and England, the adjustment of which should be promoted by the cultivation of their good will:

That, if Spain only, through mistaken pride, resents our act, though perhaps too feeble to carry on a war with us, she may interdict our commerce with her remaining colonies, and thus deprive us of a trade more valuable than any we can expect to substitute, for a long time, with the independent provinces:

That, if the importance of this trade to those colonies should induce them to revolt, or our recognition itself should produce in them revolutionary movements, the island of Cuba, the most valuable to us, will either fall under the dominion of the colored population, or of our jealous and ambitious commercial rival, England, or we must occupy it ourselves, at the expense of a war with that rival, who will certainly seek to prevent that occupation at the same cost:

That, to be deprived of so valuable a source of revenue as we derive from our commerce with the remaining possessions of Spain, and incur the risk of war, would greatly increase our fiscal embarrassment, ren-

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der inexpedient the plans of economy it is so desirable to pursue, and probably compel a recurrence to internal taxes :

That we cannot, for a great while, repair this loss by the substitution of an equally valuable commerce with the Independents, as, until their internal strifes entirely cease, and their labor can be productively employed, their trade must be limited, and we shall not be able to compete with the Europeans in their markets, but by a new commercial system, under which we shall supply them with the various products of other countries, more in demand among them than our own, and thus become at once their merchants and their carriers :

That the elements of new revolutions still exist in Mexico, in consequence of the power and influence of the priesthood and the landed aristocracy, who gave their aid to the late revolution, under the belief that they were to have an imperial government, which secures to them their property—which probably cannot be carried into operation, and which, if attempted, it is said, will be resisted by the Republic of Colombia—and that these commotions will still farther retard the return of their productive labor to domestic industry :

That the situation of Mexico is somewhat equivocal in relation to its claim to recognition, as it appears by the letter of the American Chargé d'Affaires near the Court of Madrid, that the authorized agents of that Government, after the revolt of Iturbide, and the adoption of articles of government, was known to them, still contemplated the integrity of the Spanish Empire, as it concerns this province.

And, finally, that circumstances do not warrant precipitancy—that the great interest of both parties will be endangered without any adequate motive for the risk ; and that the temporary *clat* which priority of recognition may obtain for us, is not to be put in opposition to the great permanent interests of both countries, which will be best promoted by adhering, on their part, to the sage monitions inculcated in the language of one of their most distinguished patriots, Rivadavia, who declared, as late as September last, that they did not seek the recognition of other nations, because it must operate, if unsuccessful, to the humiliation of the provinces, and if successful, to mislead the people by persuading them that such recognition was all sufficient to their political existence and happiness ; that the most efficacious system would be to establish order and wise institutions of government, throughout the provinces, and to show themselves worthy of the fraternity of other nations, when it would be voluntarily offered ;* and, on our part, by abstaining to propose that fraternity, until the elements of their political society, purified from the crimes and corruption engendered by former oppression, have settled down into order, and they have fully demonstrated their capacity for self-government ; and until we are mutually in a condition to derive advantages from a free intercourse, which will overbalance the considerations of the evil, which immediate recognition presents, without a prospect of good.

ROBERT S. GARNETT,
A member from Virginia.

The question being taken upon entering the said written declaration on the Journals of the House, it was negatived, yeas 49, noes 51.

*See letter of J. M. Forbes, of the 17th of September, 1821.

EXCHANGE OF STOCKS.

An engrossed bill to authorize the Secretary of the Treasury to exchange certain stocks bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent. was read a third time.

Mr. TUCKER, of South Carolina, called for the yeas and nays on the final passage of the bill ; which were thereupon ordered.

Mr. F. JOHNSON said he should not again have troubled the House upon the subject but for the very singular course which had marked the progress of the bill, and but for the utter repugnance he felt for the measure—a loan bill of twenty-six millions in profound peace ; that he considered the subject, as the friends of it had said, of “vital importance” in its consequence, and as a precedent. He said that the bill, as now amended, was more objectionable than at first ; that it now allowed the payment of the public debt of 1814 and 1815, as well as 1812 and 1813, to be postponed and put further off. It was now a proposition to create a loan of twenty-six millions to discharge so much of the public debt which falls redeemable in 1825, '26, '27, '28, and to postpone the payment thereof until a more distant period—taxing the community, in the mean time, and for all that time, with an interest on the debt, and which interest, as mentioned on a former day, was upwards of five million seven hundred thousand dollars annually ; that the friends of the bill had urged several grounds for its passage : first, that it was recommended by the Secretary of the Treasury ; secondly, that we shall not be able to discharge the debt when it falls redeemable ; and, foreseeing that event, now was the golden moment, now the accepted time, to make a good bargain out of the money brokers, and, by so doing, to save to the nation the payment of 6 and 7 per cent. interest on the public debt, and to substitute in lieu thereof 5 per cent. These arguments, he said, had been answered, and that satisfactorily, in his opinion, by his honorable friends from New York, (Mr. TRACY,) from Connecticut, (Mr. TOMLINSON,) and from Pennsylvania, (Mr. SERGEANT.) It had been demonstrated, over and over again, that the stockholders will not accept the exchange you propose, unless it shall be more advantageous to them than the contract they now hold on you, and consequently more disadvantageous to the Government ; so that it is to make a bargain in any event, if we bargain at all, and he said they had, moreover, shown that there was no good reason to apprehend that the credit of the Government would fall, unless uncompromitted by some such measure as the bill. But, he said, yielding to the friends of the bill, the truth of both the facts they had assumed, namely, that we shall not be able to pay the debt of 1825, 1826, 1827, and 1828, when it falls redeemable, and that money will be more in demand and the interest higher ; yet, he contended, the propriety of the measure was not established : he said, the argument which goes to show we shall not be able to pay off the public debt, presupposes and assumes for its basis, that there is

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to be no material increase in the revenue, nor any material change in the economy of the affairs of the nation; and he begged gentlemen to say, whether the same arguments, if admitted to be correct, did not go conclusively to show that we never should be able to pay the public debt. He said, if the increase of the revenue, and the reduction of public expenditure, will not enable the Government to pay off a good portion of the debt in two, three, four, five, and six years, he should like to know what was to happen after that period to enable them to pay the debt; and, said he, I pray gentlemen, who rely so much more on their predictions for our inability to pay the debt, than on exertions to pay it, to open to us the events of futurity, and give us a view, if it be but a faint one, of the prosperity which is after that time to advance our revenue and resources so as to enable us to pay this debt with an accumulation of fifty-five per cent. on it, that we may have faith, and, having faith, we may live in hopes, that, without any exertion but the mere process of creating new loans to pay off old ones, we shall some day relieve the country of this enormous debt. And if they would be kind enough, he said, to develop the process by which men or nations could get out of debt by borrowing, it would be a most acceptable invention in these times. The argument, he said, which was advanced to show that the interest on money would increase in a year or two, and hence the conclusion that we ought to borrow while interest is low and before it rises, was founded upon the assertion that the capital in the country, which was now unemployed, would in a short time be employed in a profitable commerce; that commerce was increasing, and would increase, and would employ the capital of the country. So be it, said he; and what does it prove?

If commerce increases and flourishes, does it not inevitably advance, in the proportion of its increase, the revenue of the nation? Most assuredly it does. And, if the revenue thus increases, it gives the means directly and immediately to pay off the debt. For, in the same extent, you admit the argument contended for, he said, that the capital of the country would be employed in profitable commerce, and therefore could not be obtained on loan but at a higher interest than now, also proved with it a like proportion in the increase of the revenue, and an increase of the revenue gave the means of paying the debt; and the argument thus urged, he said, in favor of the bill, was most clearly against it. So, he said, to him, it was perfectly clear, that, take the argument either or both ways in which it had been contended for, that it was against the policy and propriety of the measure. But, said he, we are told that two millions of dollars are to be saved to the nation by this bill, and several hundred thousand every year. Astonishing result, he said, to be produced by borrowing money. It was vain delusion to talk of saving millions while you plunged the nation deeper and deeper in debt; while you increased and extended the amount of interest, and gave it a sort of perpetuation on posterity that seems without end,

it is vain delusion to talk of saving; it was a sort of political sophism in which he did not believe; the fact, he said, was not so; unless gentlemen meant to make the debt perpetual, to adopt the old maxim—a *public debt a public blessing*—then, to be sure, it would be some temporary relief to the finances to pay one per cent. less on the debt. How stood the facts, he asked, in this case? Say a part of the debt is proposed not to be redeemed until the end of eleven years, and you agree, in the mean time, to pay five per cent. per annum, quarterly, on the debt, is it not an agreement to pay fifty-five per cent. on the money loaned, before you return it, you being allowed eleven years credit for the principal, by paying, at the rate of five per cent. per annum, quarterly out of the Treasury? On a loan of twenty millions of dollars, for twenty years, at this rate, you pay in all forty millions, and the twenty millions of interest, quarter yearly; whereas the same loan of twenty millions, continued but five years at six per cent. will only amount to twenty-six millions; the difference, therefore, in favor of six per cent. for a few years, is more favorable to the nation than paying five per cent. for a great number of years; five per cent. for eleven years makes an aggregate of interest, on any given sum, fifty-five per cent.; an interest of six per cent., for nine years, makes an aggregate of interest, on the same sum, but fifty-four per cent.; hence, he said, it was most clear that the actual saving to the nation was in the same proportion as the debt was extinguished within nine years, beyond what it would be to continue and put off the payment of any part until the end of eleven years. So much, he said, he had thought proper to say in addition to what had been heretofore said on the dollar and cent part of the argument.

But, he said, there were other points of view in which this subject might be profitably received and considered. Loans or a national debt, under a certain administration, was once considered a national blessing, but it had been long since admitted, on all hands, that a national debt was a nation's curse; we then deprecated a national debt, and we still continue to view it as a national evil; but it would seem, he said, that times change, and we change with the times. That very system which, under a former Administration, was opposed, abused, and cried down, as tending directly to the oppression of the people, and the destruction of the Government, we now propose to adopt and speak of with as much indifference and unconcern as if it was of but momentary consequence; that very system of loans and public debt was one of the levers that overthrew that administration and established in its stead an administration of economy and retrenchment—an administration which consulted the interest of the people and studied the perpetuation of American liberty—an administration which arrested the career to consolidation and profusion, and restored correct principles and economy—an administration that, with less capital and wealth in the nation; with less population; with fewer resources than we now possess; yes, with the remains of means of the preceding administration, extinguished about sixty-five millions

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of the public debt. And how was it done? It was effected, he said, by the then Executive of the nation turning its attention to the deranged finances of the country, correcting the faults, errors, and profusions, that had crept into the various Departments of the Government, and by husbanding the resources of the nation, and which had been esteemed, in the preceding administration, so inadequate to the annual ordinary expenses of the Government, that direct and internal taxes had been levied with a liberal hand, on the people, to supply the alleged deficits in the revenue, derived from imports and tonnage, &c. All these obnoxious and oppressive laws were repealed, and, notwithstanding the clamorous predictions of ruin and devastation which was to overtake the nation, by reason of the new organization of things which were everywhere uttered by the enemies of that administration, the sage of Monticello, to the utter astonishment and confusion of his enemies, not only kept the Government in operation and in peace, but with the remains of means extinguished about sixty-five millions of public debt.

And what, said he, is the state of things now? A profound peace and an uninterrupted commerce, enjoyed to the fullest extent. Yet the public debt has increased, for the last two years, and the payment of it is now proposed to be pushed further forward, and no effort made to extinguish it. And, said he, can gentlemen point to one single Executive effort or recommendation of means for the extinguishment of the public debt, or the intimation of a project for retrenchment. But, on the contrary, he said, what an unpleasant situation was every member of the House placed in! Yes, sir, he said, what is the estimation in which every member is held, who dares to declare himself in favor of retrenchment and economy? It is a fact no longer to be disguised from the nation; he is considered as incurring Executive displeasure; he is esteemed in opposition to the Executive. By what authority, he said, such calculations and estimates were made, he was wholly uninformed. But one thing, said he, sir, I will tell you, that, if these implications and imputations, although now, like Will-o-the-wisp, they come in at one ear and go out at the other, and we cannot tell from whence they come or where they go, yet, if they are suffered to gain ground and to spread, in the absence of all Executive acts to the contrary, they will place the Executive of this nation in an awkward position—in opposition to the will and the interest of the people—and what would then be the consequence he would not say—he would leave that to others. The people look at the progress of the public debt and the loan system with great concern; they call for its extinguishment; they call for retrenchment; they call for economy in the Administration, and it is required not more for the purpose of extinguishing the debt, than for the preservation of the purity of republican principles. Yes, said he, they look for acts and efficient measures to rid the nation of this enormous debt, growing, and likely to grow, if a different course of things is not adopted. He said, the Executive of the nation, presiding over its concerns and trans-

actions, by bestowing some attention to the disbursements of public money confided to his control, might, if disposed, be able, from time to time, to give to Congress much useful information, to aid their labors in economizing the public money. Not one word, however, upon this subject, have we heard suggested; and hence, he said, the difficulties which presented themselves to the House, upon that subject, were so great. He said, he appealed to the gentlemen of the House to say, whether it was scarcely possible for the members, however industrious and persevering, if they perform the duties of the House and those on committees, to become well acquainted, even in the course of several sessions, with the expenditures in the different departments and the labor and service and nature of service required, so as to be able to suggest and point to reform in every one, and to ascertain what, if any, has been disbursed without the authority of law—he said so numerous and complicated are its concerns, that it is almost wholly impracticable, and hence said he, we have to confine our efforts, to the more prominent establishments of the country, the Army and the Navy, and attempts at the Civil department. The Army, said he, we reduced last session, and that department had introduced and was approaching, a degree of economy not observed, it was believed, in any other. And is there, he said, no necessity for attention to this subject? He said that something like five millions a year, was appropriated by Congress in the nature of its expenditure, more or less contingent—some of it altogether contingent, the residue depending on the discretion of various persons in its administration and disbursement. He did not say that abuses had taken place, and if there was not, he said, it was right upon principle to investigate and to understand, but that, from the manner of reporting the accounts of the various expenditures to the House, but little or no information is afforded; they are chiefly reported in sundries—so much for sundries, &c., and he could not any better judge after such accounts came in than before as to the propriety of the expenditure, but he supposed it was owing to the manner in which the auditors kept their accounts; he supposed they just sent extracts from their ledgers. He said he observed some items, however, that he could find no authority for, but he would not now trouble the House with the mention of them upon this occasion, but he just observed that in an appropriation of \$30,000 for an Indian treaty, he saw ten thousand dollars set down as so much given away, for which there was no other evidence than the word or certificate of the givers of the money; \$10,000 paid in part for the cession obtained, the residue absorbed in expenses and wages. Look at the contingent expenses upon almost any subject, and see if there is not something of the same want of attention to the public interest; this he mentioned as a small circumstance that had just crossed his mind, it was small compared to other appropriations—he knew of no authority for giving away the public money, and none for admitting credits and disbursements without evidence; it might, he said, be right, but it was cer-

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tainly a dangerous sort of principle to sanction—irresponsibility for the expenditure of public money; indeed he said it would seem there was somehow or other too much indifference about the expenditure of public money. The Ghent Commissioners are, he said, a singular evidence upon the subject; these commissioners have been for five or six years drawing immense sums of money out of the Treasury, and a great part of the time about their own business; some excuse or other is offered for not completing the business, but the money goes, if the business stands; and they are retained on wages. Captain Cook or Sir W. Raleigh, he said, would have sailed round the world two or three times while these commissioners have been engaged in running a line upon a very small part of its surface. He had taken occasion to refer to these subjects, as most likely not to have escaped the eye, yet nothing is said; and he would suggest, these items were in his opinion neither the most flagrant nor most numerous. Look at various reports and judge for yourselves.

Mr. J. said, as the Executive seemed to abandon all scrutiny in the disbursements of public money, and had not deigned to trouble himself with offering or suggesting to the House any mode or plan of retrenchment in the public concerns; he should, on some future day of the session, unless some other member would do it, propose to the House the appointment of a committee to examine into the disbursement of public moneys, and to form some plan for the future. That all he desired was that the laws should prevail, that the House might be informed, and the nation should know, where and for what their money was expended, whether according to law or at the discretion of others, which it was impracticable he said for them to know now, and consequently the Congress could not at this time so competently bring about that system of reform, which the people had a right to expect, and which the finances of the country called for.

But, he said, we were told the other day by the honorable gentleman from New York who sat before him, (Mr. Woon,) that we could not retrench to more than half a million of dollars without doing injury to the public service. Very well, said Mr. J., that little is worth saving. It will serve to pay the interest of the public debt, or very nearly, and leave so much the more to be applied to the payment of the principal. But he had hopes much more than that amount could be saved in that way.

Mr. J. said he would repeat what he had said on a former day, that the passage of the bill might answer one purpose which he wished to avoid, and that was, it might, for the present moment, seem to do away the necessity for retrenchment by pushing the burden of the debt a little further on posterity. He said he would not have gentlemen to think too lightly on this part of the argument—necessity. If, said he, we look back to the last session of Congress, when the subject of reducing the Army was before the House, to the exertions made by the honorable gentleman to convince the House and the nation that there was

no necessity for reducing the Army or any thing else, by endeavoring to show that the deficit in the revenue was so small as not likely to affect the operations of the Government, when, at the same time, the report of the Secretary of the Treasury was before us requiring the loan of seven millions of dollars. Nor had he forgot that the President's Message to that Congress spoke of the state of the nation in the most flattering terms. And when, he said, these sort of arguments could not succeed, was it forgotten that those who were in favor of retrenchment were called radicals and disorganizers; that they were charged with cutting down and ruining the Army and all the useful and valuable establishments of the country? In fact, said he, such was the opposition to retrenchment then, that the friends of retrenchment were looked upon as designing the ruin of the country. But, said he, the Army was reduced—the country is not ruined—millions are saved; and what, said he, would have been the consequence had no retrenchment been made? Why, another loan at the present session for the annual expenditures of the Government. And we find, he said, that the Executive departments are quite willing to avail themselves of the benefit of that retrenchment which it was understood they were most decidedly opposed to. Such are the difficulties under which the Representatives of the people labor at this time in promoting the best interests of the nation.

The Committee on Naval Affairs, he said, had recently reported a bill for a Peace Establishment of the Navy. He had not read the bill; but he was glad to find a spirit for retrenchment prevailed as to that too; he was satisfied it would have a salutary influence—it would render the Navy more efficient and less expensive. Yes, sir, said he, let us march on in the good work; let us not postpone, but pay off the debt; it is our duty to look into all the concerns of the nation, and lop off every thing that is not essential. We owe it to the people, a confiding people, who have placed us here to superintend their concerns. He said he admitted that it was unpleasant to be under the necessity to do things sometimes; it was often a hard task master; but it was sometimes very useful, and more especially in bringing about a result which two bodies have to concur in, and to which the most preponderating one is opposed; it disarms the influence which it might otherwise have and wield upon the subject. Let us not, therefore, postpone the evil day, the day of burden, but let us prepare to pay what we can. Suppose, said he, we postpone this debt—make no exertions to pay it, and, in the course of ten years, we have another war, what will be the consequence? Another hundred millions will perhaps be added to the public debt; for in war our debt always increases. Peace is the time—yes, sir, peace is the time to pay it off, and if you lose the opportunity of doing so, it has fled forever. Let profusion in your concerns prevail; postpone the payment of the debt; let war come; another one hundred millions added; and what then? We have some hope of managing a debt of a

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hundred millions; the nation can bear that; but add another hundred, and we sink under it. We shall be compelled then to resort to direct and heavy taxes. He said it would be better policy to levy a tax now and pay off the debt, than to postpone and suffer it to grow and waste the substance of the nation; that direct taxes were the most injurious to our country; that they were the most unproductive of any other, according to the amount levied; that they introduced among the people a swarm of assessors and collectors that harassed and perplexed them; and, besides, said he, they exhaust by commissions, fees, and defalcations, a great amount of the money thus drawn from the people. We must, he said, somehow, rid the nation of this debt. A direct tax at this time, he said, was utterly out of the question; it could not be borne now; the only resort left is to retrench and reform as far as we can. After this is done, we shall be able to estimate what we shall fall short in meeting the debt when it falls redeemable; and the increase of the revenue, in the meantime, will be better ascertained, and give us a more certain standard by which to calculate its annual results; for it is rising now, it is hoped, from its lowest ebb. And if, said he, after all these precautions and preparations, we shall not be able to redeem the whole of the debt, it will be time enough then to resort to the measure of postponement, and we shall be better able to see what will be the best course to pursue; and he hoped we should not, from three to six years beforehand, pronounce upon the inability of the nation to pay the debt; it was too humiliating; and, besides, he trusted it would turn out differently. He insisted no good was likely to result from the measure, and he did most sincerely hope the bill would again be rejected.

Mr. BUCHANAN observed, that, although the bill before the House, even as it had been amended, did not please him in all its details, yet, imperfect as it was in his estimation, he deemed it in principle to be a measure so advantageous to the country that it should receive his decided support. The gentleman from Kentucky (Mr. JOHNSON) has complained that the friends of retrenchment, of whom he professed to be one of the most zealous, were denounced as radicals and enemies of the present Administration. Mr. B. was utterly at a loss to know what application such remarks had to the subject under discussion. If they had any, for one he could observe, that denunciations of this kind would have no terrors for him. He neither desired nor expected any favor from the Administration; and he trusted that, whilst he held the high and honorable station of a Representative of the people, he should neither wish nor ask for any other distinction. He was, therefore, alike indifferent whether he was called a radical or an ultra.

Mr. B. said, that the present amount of the national debt might be stated, for the sake of even numbers, at \$93,000,000. \$63,000,000 of this sum is the balance of the war loans yet remaining unpaid, and bearing an interest of six and of seven per cent. per annum. This balance will be re-

deemable at the pleasure of the Government, in the years 1825, 1826, 1827, and 1828. The measure proposed by the present bill is an exchange of \$26,000,000 of this stock, upon which the Government now pays an interest of six and seven per cent. for stock to that amount, bearing an interest of five per cent. and not redeemable until 1830, 1831, 1832, and 1833. This exchange, in all human probability, can now be effected. The only question, therefore, to be decided, is the policy of the measure.

It is said by its enemies that this bill should not pass, because it will deprive the Government of the power of redeeming \$26,000,000 of the public debt, during the years in which it will become due. If the slightest prospect existed that we should be able to pay the \$63,000,000, during those years, then, said Mr. B., I admit this would be a conclusive objection to the bill. Unquestionably we should not deprive ourselves of the opportunity of discharging our debts, whenever we shall have the ability. But does any gentleman, however sanguine he may be in his calculations, really believe that our revenue, during the years 1825, 1826, 1827, and 1828, will be sufficient to defray the current expenses of the Government, to pay the interest of the whole of the national debt, and sink \$63,000,000 of the principal? During each of the two last years our debt has been increased upwards of \$2,000,000; and the Secretary of the Treasury, in his annual report, has informed us, that until 1825, the year when the first of the war loans may be redeemed, he does not calculate that our ordinary receipts will enable him to do more than meet the ordinary expenses of Government, the interest of the national debt, and the payment to the public creditors of the small balance yet unpaid of the deferred six per cent. stock. That officer, we are informed by the Chairman of the Committee of Ways and Means, now believes, from the late improvement in the revenue, that the \$2,000,000 of six per cent. stock owned by the Bank of the United States, may also be discharged during the intermediate years. This, however, is the utmost extent, beyond which our most sanguine expectations have not carried us.

If you should delay making such a provision as that contemplated by this bill until 1825, what will then be your situation? During that and the three subsequent years, you will either have a debt of \$63,000,000 to discharge, or you will be compelled to pay for it an interest of six per cent. If you pay the amount, you must provide the means, by resorting to loans; and your necessities will then compel you to borrow so much at once, that the value of money will be raised in the market and you will not be able to obtain it at so cheap a rate as it can now be procured. Is it not, therefore, infinitely more politic to make the contemplated exchange of \$26,000,000 at the present time, when it can be done upon advantageous terms, than, under existing circumstances to trust to the future?

Should this exchange be effected to its full extent there will still remain \$37,000,000, which we may pay in 1825, 1826, 1827, and 1828; upwards

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of \$9,000,000 each year. This sum so greatly exceeds that portion of the Sinking Fund applicable to the payment of the principal of the debt during those years, even should it be in operation to the full extent at present contemplated by law, that we shall then be obliged to borrow large sums of money. This bill is calculated to divide the pressure. Let us now make an exchange of a part upon good terms; and by doing so we shall secure to ourselves infinitely better terms for the balance in 1825, 1826, 1827, and 1828, than we could otherwise expect.

Mr. B. said, he believed this to be the auspicious moment for making the exchange. Trade is reviving, and the demand for money becoming consequently greater. Should we realize the commercial advantages which we expect from our declaration, that the South American provinces are free and independent, new avenues will be opened for mercantile enterprise, and for the employment of that capital which now remains idle. The interest of money must rise as the demand for it increases. On the other hand, if Spain should, in violation of the principles of justice and of the laws of nations, declare war against us for recognising the independence of her colonies, or even threaten it, the necessary result must be a depression in the price of your stocks. The experience of every country, in a state of actual or probable war, proves the truth of this position. This, then, appears to be the favorable time which, if we suffer to pass away, may never again return.

The immediate effect of this exchange will be an annual saving of \$260,000. My friend from Kentucky, said Mr. B., who is so laudably desirous of introducing economy in the expenditure of public money, should have included this item in his calculations.

The present bill, we have been informed by the chairman of the Committee of Ways and Means, is a financial measure of the Secretary of the Treasury. Now, although the opinion of that officer, even in matters of finance, should not be authority; yet, from his character and official station, it is entitled to much weight. When there is doubt—when the judgment is nearly balanced, it should at least turn the scale. If Congress reject this measure, thus recommended, and if we shall be compelled to accept much worse terms in 1825 than the bill proposes, our constituents would have a just right to complain of our conduct.

It has been urged that the provisions of this bill are immoral in their nature, and will tend to introduce a system of wagering on future contingencies. It appears to me, however, that there is not the slightest foundation for this objection. Would the most rigid casuist consider, that the man who had borrowed money some years ago at the rate of six per cent. per annum, which will become due three years hence, is liable to an imputation of dishonesty if now, when money is worth less than five per cent., he offers to his creditor to extend the time of payment to eight years, provided he will accept that rate of interest from the date of the arrangement. This is precisely the proposal of Government as contained in the present bill.

Mr. B. concluded, by expressing his decided opinion that, in whatever view this bill could be presented it would be beneficial to the country, and, therefore, he hoped it might pass.

Mr. FULLER expressed his sentiments against the bill, and, among other objections, he urged that it provided for giving to one class of the public creditors an advantage over another, by permitting the holders of stocks of different loans and value to come in and avail themselves of a common privilege. He remarked that, if the state of the stock market should be the same two years hence as at present, this would be a losing bargain, and he thought the chances of its favorable fluctuation was not such as to authorize the calculations of the friends of the bill.

Mr. WOODSON, of Kentucky, observed that he rose to address the House at this stage of the bill, not with a view of trespassing long on its patience in the discussion of a subject which he had hoped a few days since was finally disposed of, and the reconsideration of which was not to be anticipated. However, in the vicissitude of events, it has so happened that it is again presented; and a sense of imperious duty compelled him to solicit their indulgence whilst he briefly expressed his own, and, he believed, the sentiments of those by whose confidence he was honored with a seat in this House.

This bill authorizes the Secretary of the Treasury, on behalf of the Government, to propose to a specific class of its creditors an exchange of \$26,000,000 of stock, bearing an interest of 5 per cent. for a like amount of 6 and 7 per cent. stock; and the only inducement held out to present selected stockholders, is the extension of the term of redemption some four or five years.

A single moment's reflection on the character of the measure produces the conviction that it is nothing more or less than a loan in disguise, and that, too, by anticipation.

The people, whose will he is bound to obey, judging from lessons of experience, condemn the habit of resorting to loans in times of profound peace, to sustain the operations of Government, or any measure calculated to rivet upon them or their posterity an immense debt, which they are not as yet prepared to admit is a national blessing. In the hour of war and difficulty, it is true, their patriotism and devotion create an inexhaustible fund, upon which their representatives may draw, with confidence, unlimited bills of credit. But, when the tempest has subsided, and serenity succeeds, they in return require that prudence and economy should be observed, and aid in relieving them from accumulated pressure. They will not be satisfied with empty professions; they act when necessary, and we, as their faithful representatives, ought to follow their example.

A Government is justly assimilated by them to an individual, and the same results relied on from the same causes. What would public sentiment pronounce, then, of an individual who managed his private concerns in a manner requiring a habitual resort to bank accommodations or loans to defray his ordinary expenses, or discharge his

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debts? To say the least, it would negative the idea of his prudence, and calculate with certainty on his ultimate embarrassment and humiliation.

This system of measures, he contended, created and confirmed a moneyed aristocracy in the country, distinct and separate in their feelings and interest from the great mass of the community—influencing, as he feared, at this moment, and hereafter destined to give tone and character to all our national measures; to cause luxury, extravagance, and idleness, to supplant the virtuous republican manners, the economy, the active enterprise, and hardy labor of our ancestors—sap the public virtue, and ultimately demolish the Government of the people. Should they stop short of those dreadful results, they will at least paralyze the public enterprise and retard its prosperity, by diverting the capital of the country from permanent establishments, requiring labor, care, and ingenuity, and yielding but a moderate though sure profit, into funded debt. Wealth is power—money is said to be the sinew of war. Place the purse or the credit of the nation in the hands of a privileged few, or of foreigners, and sooner or later the sword will accompany it. These may be considered by some as groundless speculations—idle fears. They are such as were entertained by the founders of our Republic, and the experience of other countries has too frequently witnessed their sad reality. Can the nation tolerate the humiliating idea of being the debtors, and consequently subject to the supercilious interference and control of a foreign nation, jealous of our rising greatness? If not, let me entreat this House to pause before they adopt this measure; for I venture to predict, if the exchange is effected, by far the greater portion of the stock will be exported to, and disposed of in, a foreign country—remitted, in other and more specific language, to England.

If this event be not only possible, but highly probable, from the unfavorable rate of exchange against us, and we should hereafter come in collision with that Power, and it becomes necessary to vindicate our insulted honor, or maintain our rights, can we resort to war? Indeed, can we assume, in any respect, the proud and elevated attitude of an independent, high-minded nation? No. That same honor would suspend the arm of vengeance until the debt was paid.

But, some gentlemen have said that the Government would acquire additional strength and security; that your enemy would be interested in preserving peace, to prevent a confiscation of their debts. This is by no means a novel idea; experience has long since proved its fallacy.

Their influence will be exerted to depress the public spirit, and obtain from us dishonorable concessions. They know full well that the sacredness of public debt has been settled by universal consent, and that no nation dare to violate it.

It is unnecessary to dwell on consequences so obvious and awful.

What is the pressing emergency, the dire necessity, requiring such despatch—this sudden risk of public credit?

Why this reversal of the pleasing prospects of

our increasing commerce and prosperous condition of our revenue—the fond hope of the speedy and actual payment of our national debt, presented and received with so much eclat at the commencement of our session? Were they designed to be delusive? It would be uncharitable to believe so. If not, why is it that our Government is now represented as a vessel in a dead calm, and an experienced helmsman warning the crew of a distant speck in the horizon, the harbinger of an approaching storm? I cannot perceive. But, if the present side of the picture be the real one, let us profit by experience; haul in our sails; make the vessel tight and snug, and she will still ride the waves in safety. Do not the pride and dignity of the Government revolt at the idea of being placed at the mercy of brokers, bankmen, usurers, stockjobbers, and money-dealers of every character, some of whom, I suppose it would be admitted, were governed exclusively by their views of profit and loss, or ambition, and with whom patriotism will be but as a feather in the balance?

When was the real money-lender's heart known to soften at distress, or his demands lowered by the extent of your necessities? How often does a candid acknowledgment of your inability to pay enable you to obtain more favorable terms on the solicited renewal of your bond? Let those who have experienced the blessings of bank accommodations, or the indulgences of the most polite creditors, respond.

Gentlemen are requested to reflect, and fathom, if they can, the depth and extent of the wound they will inflict on the national character and credit, if the proffered boon should be rejected. To him it seemed there existed an astonishing apathy on this branch of the subject. It is viewed with apparent unconcern, as a mere experiment. If crowned with success—all the stock exchanged—we will gain by the operation *two millions*! And if it should fail, say gentlemen, we shall be in *statu quo*. Can this be possible? Is the preservation of our honor nothing? Are we thus at liberty to sport with our reputation for the mere chance of gaining that sum, paltry in a national point of view? If that amount alone is wanting to sustain us, the danger is not imposing, and we may safely rely on the people for its supply. Commerce is admitted by all to be reviving, and the demand for money rapidly increasing. Will five per cent., under such circumstances, satiate mercantile cupidity? Or can it be imagined that they will abandon a favorite and lucrative pursuit to invest their capital in the funds upon the terms proposed? Judging from human nature, he would suppose not. Yet he was so little habituated to nicety of calculation, he was bound to yield the minutiae to the gentleman from New York, whose profound knowledge on those topics had been so forcibly evinced. His main reliance, however, was on general principles, and he must be pardoned for refusing to pin his faith to any gentleman's sleeve. Now is said to be the accepted time, and if we fail to embrace it, the opportunity to make so good a bargain may never again present itself.

Are we then reduced to the necessity of huck-

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stering, bartering away our funds? Where, we may inquire, is the never-sleeping vigilance, the superior intelligence, of that class of the community, and their most devoted Representative, the defender of their interest in this Assembly—one who not only speaks, but has written, with so much ability in their cause?

Are they ignorant, do you imagine, of the real state of our finances—our ability to meet, or not, with promptness, our engagements? Is it fairly to be presumed that they are idle spectators, or lend a deaf ear to the appalling picture of our future wants—to the desponding declamation of our Congressional orators? No. He feared the arguments advanced—the coloring used to induce you to propose—will occasion them to reject the offer. They will not be blind to their interest, and will either accept or reject as it may dictate. They know that sixty-three millions are redeemable in the years 1825, 1826, 1827, and 1828.

Gentlemen have contended that the price of stock is regulated by the protracted period of redemption, and imagine that the extension of it five or six years will effect the object. This argument vanishes if there be soundness in that so repeatedly urged and reiterated, that the Government will be unable to redeem its debt by the appointed time. If permanency of the stock therefore be the desideratum, six and seven per cents. will not be relinquished for fives, should the melancholy predictions of gentlemen be verified.

Justice is one of the brightest ornaments in our national escutcheon—our true policy—and it appears to have been lost sight of in the proposed arrangement by the selection of particular stockholders. For what reason is it that you make the discrimination? Can we say that the present owners of the stock proposed to be exchanged are more meritorious, or have any particular claims to our liberality—more patriotic in their advances to the Government than others? The whole or far the greater part was created to support a just, necessary, and a glorious war, and they are equally entitled to the gratitude and justice of the country. Why then not throw open the door of competition, and permit all who choose to enter and participate in the advantages, and thereby prevent a dangerous and unwarrantable monopoly of our funds?

If this possession be beneficial, scatter those benefits like the gentle dew of heaven, which may be gradually absorbed. Do not confine and limit and concentrate a mighty mass in a single channel, which, from its weight and depth, may prove destructive in its course. Is it not likely that your selection may fall upon the least meritorious of our creditors—those who, as a business, speculate upon the ebb and flow of circumstances affecting our prosperity.

This he considered as a most critical and unfavorable time to place ourselves in such hands, to be proclaiming as it were from the house tops, our weakness; to test the extent of our national credit; to transport our funded debt. We have assumed the noble attitude of a band of brothers, a united nation, in an act, second only in grandeur

and importance to the declaration of our own independence, and it becomes us to evince to the world a just, though dignified and modest confidence in the rectitude of our motives, and our real ability, with the will of Heaven, to sustain it. It is impolitic and unwise to be sounding false alarms, or exaggerating our difficulties, or boasting too much of our energy.

He denied that it was permissible for a Government at any time to enter the market, and speculate upon its credit. But in this instance it would be particularly objectionable; in his estimation discreditable. The stocks were created by the patriotism of the nation; if we are compelled to make the exchange, honesty is the best policy; our true interest and honor would dictate that we propose to do so, without requiring any other advantage than time.

The Secretary of the Treasury displays a laudable confidence in the national resources; he presents, to be sure, the present scheme to our consideration, but it is in the alternative, and he appears to entertain no doubt of our ability, if necessary, hereafter to accomplish the same object more advantageously by the issue of new stock.

If it be true that commerce is reviving, of which there seems to be no doubt, we shall be enabled, I trust, to meet our engagement, and sustain our national honor without resorting to either. Upon every view of the subject which he could take, it appeared to him to be a gilded pill, which he confessed his nerves were not sufficiently braced to recommend, even as a tonic, believing as he did that it is contrary to our true policy, and to the will of that portion of the people to whom he is responsible, and that the nation is by no means so debilitated as to require it. He therefore hoped the measure would not be adopted.

Mr. McDUFFIE said, that it was not a matter of surprise that a very great diversity of opinion should prevail in relation to the proposition before the House; nor, was it a matter of surprise that, on a financial question of some novelty, involving the consideration of millions of the public debt, the House should not only feel a deep interest, but considerable doubts and difficulties. But, he said, he was much surprised when he saw the two gentlemen from Kentucky (Mr. F. JOHNSON and Mr. WOODSON) adding to the intrinsic difficulties of the question by the introduction of topics foreign to its merits. One of those gentlemen (Mr. WOODSON) had boldly disclaimed all regard to financial calculations, and, in doing so, had distinctly disclaimed all regard to the only considerations that ought to have any weight with the House. And he confessed that, after this broad disclaimer on the part of that gentleman, he was not surprised at the wide and excursive range which he had taken in the debate. But, sir, said he, this is essentially a financial question, and I cannot conceive how we can determine whether or not it is expedient to adopt it, if we do not descend to the business of calculation. We must inquire, What is the amount of the public debt? When will it be redeemable at the pleasure of the Government? And what then will be the probable capacity of

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the Government to effect the redemption? Now it is admitted on all hands, and, if it were not admitted, it is apparent from the official documents before us, that, during the years 1825, 6, 7, and 8, sixty-three millions of the public debt, bearing an interest of six and seven per cent., will become redeemable. It is equally apparent that the surplus which shall remain of the ordinary revenue, after defraying the current expenses of the Government, and discharging the interest of the national debt, will not be sufficient to redeem within fifty millions of the sum that will be thus redeemable. Sir, when these two propositions are granted, which no gentleman has denied or can deny, it requires no great powers of logic to deduce the consequences. They are clear and inevitable. We must either raise a revenue of fifty millions of dollars by direct taxation, between this time and the year 1828, or we must procrastinate the period fixed for the redemption of the public debt.

The former alternative is quite out of the question. No gentleman would seriously recommend so enormous a tax for such an object, at a time when we are but just recovering from the most overwhelming pecuniary embarrassment that ever befel a prosperous nation—an embarrassment, too, which we must trace to that very war in which this debt was contracted. Indeed one, or perhaps both of the gentlemen from Kentucky, took occasion to deprecate a resort to direct taxes, in the very act of opposing, upon the broadest principles, the only measure by which such taxes can be avoided. This seemed to involve an inconsistency which he thought it would be difficult to explain. But, said he, as it is granted that a direct tax is not contemplated, it follows, as a necessary consequence, that we must procrastinate the period at which the public debt shall be redeemable; and it only remains to be determined how this can be effected on terms most advantageous to the Government. It may be reasonably estimated, as already intimated, that there will be fifty millions of the public debt, bearing an interest of six and seven per cent. which will be redeemable at or before the year 1828, and which the Government cannot then redeem. In this state of things the public creditors ask it as a favor that we should not pay them the principal of their debt, and tell us that, if we will throw forward the period of redemption, they will take five per cent. instead of six and seven. In other words, they will exchange their six and seven per cent. stock, redeemable four or five years hence, for five per cent. stock, redeemable ten or twelve years hence. And shall we not accede to this proposition? Is it not better that we should pay five per cent. than six and seven per cent.?

But an honorable gentleman from Connecticut, (MR. TOMLINSON,) had, on a former day, used a very plausible and imposing argument on this point—an argument which had made a strong impression upon the House, and which, for the moment, Mr. McD. said, made a similar impression upon him. But he was prepared to show that the gentleman's argument, when pushed to its full extent, would lead to a result different from that

which he had supposed. He understood the gentleman to contend that we ought to wait until the six and seven per cent. stocks become redeemable, and then open a new loan to raise the money to redeem them. And, said the gentleman, as the six and seven per cents. will, of course, be at par, it will follow that, if the five per cents. remain as at present, nine or ten per cent. above par, we shall gain, by postponing the operation, a sum equal to the aggregate amount that the five per cents. will produce above their par value. But, he said, the fallacy of this argument consisted in the supposition that the value of the five per cent. stock will not be diminished by increasing the quantity in market. The price of stocks, like that of every other article, depends upon the relation subsisting between the supply and demand. Indeed, the gentleman himself very justly ascribed the present high price of the five per cents. to the smallness of the amount in market. And when he told us we should depress their price by the proposed exchange, which will substantially throw twenty-six millions into the market, it is strange that he did not extend his view a little further. If he had done so, he would, doubtless, have seen that a much greater depression would be produced by suddenly throwing into the market fifty millions five or six years hence. What, said Mr. McD., would be the situation of the Government, and what the interest of the public creditors? The Government would come into the market to obtain a loan for so large an amount, with a declaration of insolvency, as the only inducement it could offer the public creditors to subscribe to the new loan. What would be the conduct of the creditors? They would use every effort and resort to every combination to prevent the Government from obtaining favorable loans. For, as they would be the holders of six and seven per cent. stock, which the Government could redeem only by loans, they would have a deep interest in preventing a loan at a lower rate of interest, whereby they would, in effect, lose their stock, or have the interest proportionably reduced. Mr. McD. appealed to those who were familiar with the vicissitudes of the money market, and the operations of borrowing and lending, to say how great would be the effect which the holders of fifty millions of stock might produce on the price of stock. Suppose, said he, the Government should propose to effect a loan to that amount by the issue of five per cent. stock. The very fact that the holders of the six and seven per cents. should refuse to subscribe to the new stock, would so far diminish the demand and the competition, that its price would be greatly depressed. And he would venture to predict that, if this bill should not pass, the five per cent. stocks, for which we can now obtain the six and seven per cents., (thereby saving in interest between one and two millions of dollars,) will, at the end of four or five years, be at par, if not lower.

It is then, said he, the obvious dictate of prudence to anticipate and obviate embarrassments in our finances by timely arrangements. By throwing the five per cent. stock gradually into the market by successive operations, that depression in its

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value would be avoided, which an opposite course would most certainly produce. The amount which we now propose to exchange is not much more than half the sum that will be redeemable in 1825, '6, '7, and '8; and there will, of course, be a sufficient sum left to give full operation to all the surplus revenue which we can reasonably anticipate.

A gentleman from Kentucky, (Mr. WOODSON,) had edified the House, Mr. McD. said, with many profound political truths, liable, however, to the objection that they did not happen to relate to the question before the House. That gentleman had denounced, with great emphasis, all moneyed aristocracies; but, what had that to do with the question? Are the public creditors a moneyed aristocracy? Or, if they are, does this bill increase the evil? Does it propose to incorporate them? Or can the gentleman really believe they will be more aristocratical or more dangerous because we shall pay them only five per cent., instead of six and seven per cent.? Both of the gentlemen from Kentucky had indulged themselves in vague and general declamation against a public debt. But, said he, how unprofitable is it to declaim against what we cannot avoid! The debt already exists. It was contracted for the purpose of prosecuting the late war with Great Britain. Do the gentlemen seriously think it ought not to have been contracted? Do they disapprove of the measure which gave rise to it? They will assuredly say no. Then can any man believe the war could have been carried on without loans?

Sir, said he, as long as we depend exclusively upon foreign commerce for revenues, a war must, in the very nature of things, annihilate our financial resources, and we must be dependent upon loans. The distribution of the capital and labor of the country must be entirely changed, so that our revenue shall be derived from internal sources, before we can, during war, raise any thing like the amount of revenue necessary to meet the public exigencies. A large debt must be contracted, and when peace comes it only remains for a prudent government to pay it off as rapidly as it can, without subjecting the people to heavy burdens when they are least able to sustain them.

But an honorable gentleman from Kentucky (Mr. F. JOHNSON) seems to imagine that, if we adopt this measure, we shall commit ourselves against making the necessary retrenchments in the public expenditure. It is an easy matter, said Mr. McD., to declaim, in general terms, about economy and retrenchment; but let him bring forward his specific propositions, and, if he would point out a rotten limb in the system, he, Mr. McD., would co-operate, heart and hand, in its amputation. For, while he should firmly and fearlessly resist all projects which should endanger the efficiency of those establishments which were essential to the independence and safety of the country, he was as deeply impressed as the gentleman from Kentucky with the importance of avoiding a wasteful expenditure of the public money. It would be no argument against a retrenchment dictated by sound policy, that the embarrassments of the Treasury did not compel us to resort to it.

And he had sufficient confidence in the good sense of Congress, that they would make all the necessary reforms, without being driven to it by an imperious necessity.

Upon the whole, he thought this a measure of forecast and wisdom, and hoped it would be adopted.

Mr. TUCKER, of Virginia, remarked that he had no feeling on this subject; he viewed the proposed exchange of stocks, merely as a prudent financial measure, and had therefore always been in favor of the bill. And as the gentlemen from Kentucky, who spoke first, (Mr. JOHNSON,) had, by a sort of general challenge, called upon its friends to point out those future changes in the circumstances of the country, on which they justified the measure, he would briefly state the considerations which influenced him. Mr. T. said he was friendly to the bill, under the persuasion that the interest of money would rise in this country; consequently, that stocks would fall; for he agreed with the gentleman from Massachusetts, (Mr. FULLER,) that we should gain or lose by the exchange, according to the price which our five per cent. stock may bear in the market, when the six and seven per cents. became redeemable. Thus, if, in 1826, our five per cent. stock should bring six per cent. above par, then, as we save by the exchange two per cent. per annum, for three years, in the payment of interest, it comes to nearly the same thing; and if our five per cents. should be higher, then we should lose. But he thought there was much greater probability of their falling.

Mr. T. said that there were two very different causes for the fall in the interest of money—one was the gradual accumulation of large capitals in the hands of individuals, during a long course of prosperity, such as existed in England and Holland, when interest had gradually declined from ten per cent. to eight, to six, to four, and, he believed that, in Amsterdam, large sums may be now borrowed as low as three per cent. He said, the same cause operated in this country, and in every period of twenty or thirty years, by the accumulation of private wealth, interest may be expected to fall. But, he said, there was another cause, which was the sudden change in the circumstances of a country, by which that capital which had been actively employed, had become idle and redundant; and he contended that the last was the cause of the low rate of interest in this country; that it was the effect of comparative adversity, rather than prosperity; that we had now lost much of that extensive and gainful commerce we had lately enjoyed, which had made more capital in the country than could immediately find profitable investment. But, whenever interest is low from this cause, it cannot be permanent. If our commerce should revive, of which there were some present symptoms and encouraging prospects, then much of the money, now vested in the funds, will be demanded for mercantile pursuits, by which, of course, the natural interest of money will rise, and stock will fall. But if, on the other hand, the present stagnation of commerce should continue, then the present redundancy of capital is constant—

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ly diminishing. In the natural course of things, it will seek other investments; it will find employment in manufactures, or in the purchase of Western lands. It will be subdivided among children, or will melt away and be consumed. The present low rate of interest, less than five per cent., is not its natural state in this country, which has so many modes of absorbing capital, as fast as it can be created, it cannot last; and whether our commerce improves or falls off, or continues as it is, the natural interest of money must shortly rise from what it now is.

But the gentleman from Kentucky, (Mr. JOHNSON,) said, that, if our trade should experience that extension that the friends of this bill anticipated, our revenue would proportionally improve; in which case, we should have money lying idle in the Treasury, before these new five per cents. would be redeemable. But, said Mr. T. the gentleman forgets that though the debt is not redeemable by law, it may be purchased by the Commissioners of the Sinking Fund, and that, on the supposed contingency of an increase of commerce, interest would rise, and stock fall, so that if we have any superfluous money in the Treasury, we may buy in the stock before it is redeemable, and buy it under par, by which course this measure will prove doubly beneficial.

Mr. T. adverted to an argument that had been first used by a gentleman from New York, (Mr. TRACY,) and afterwards urged with much force and success by a gentleman from Pennsylvania, (Mr. SERGEANT,) that this exchange was like a wager between the stockholders and the Government, as to the price of the stocks three or four years hence. Mr. T. said, this view had made much impression on him at first, but he then thought the argument was rather specious than solid. In such a wager, he admitted that many of the money holders would have the advantage, and the present high price of five per cent stock, payable at a distant day, was not the mere result of calculations of futurity—it was produced, like every thing else, by the proportion between the supply and the demand. There are more lenders than borrowers—the money holders get six per cent. if they can; if not, they will take five, or less, rather than let their money lie idle—and, in the uncertainty whether they can find employment for their money three or four years hence, when the Government shall pay them off, they will, in general, make the exchange, though some of them should make the same calculations of the future that we do. Besides, Mr. T. said, as the prudence of this measure depends on a contingency, and interest was now confessedly unusually low, he thought we ought, like prudent individuals, to divide the risk—and, as we could not pay off the whole public debt for some years, to make an immediate reduction of the interest, when we had it fairly in our power to do so. Mr. T. adverting to Mr. FULLER's objection, said that he liked the bill better with the amendment of the gentleman from New York, (Mr. CAMBRELENG,) than in its present shape; but as it is now modified, the Secretary of the Treasury might require

a portion of the stock redeemable in 1827, and 1828, as well as that redeemable in 1825 and 1826, or give a preference to the former, so as to remove the objection of putting the holders of both stocks on the same footing.

Mr. T. said he had intended to reply to the arguments of the gentleman from Kentucky, who spoke last, (Mr. WOODSON,) but on reflection, he should decline it, as he presumed that the answers which had so readily presented themselves to his mind, had not escaped the mind of others. He said, that that honorable gentleman must have viewed this financial measure under the strong bias of feeling, or he never could have made some of the objections he had urged. He could not have supposed that the Bank of the United States could become the holders of the proposed five per cent. stock, as their charter forbids them to purchase stock—nor would he have made it an objection that we might be unfortunately involved in a war with Great Britain, and then twenty-six millions of our stock might be held in that country. Mr. T. said, in such an event, their holding the evidences of our debt could give them no advantage over us—and remarked, that the objection reminded him of a story he had somewhere read, that a party of insurgents, in Ireland, getting into their hands a large quantity of the notes of an unpopular banker, destroyed them, by way of doing him an injury. Mr. T. said he was as much a friend to economy and retrenchment as the gentleman from Kentucky, and it was because he was so, that he was friendly to this bill, and should vote for it.

Mr. FULLER explained his remarks, which he thought had been misapprehended by the gentleman from Virginia (Mr. TUCKER.)

Mr. SMITH, of Maryland, commented at length, in an able and lucid manner, upon the observations that had been made by the gentlemen who had severally expressed their sentiments against the bill. Finally the question was taken on its passage, and decided in the affirmative—yeas 99, nays 55, as follows:

YEAS—Messrs. Allen of Tennessee, Archer, Baldwin, Barber of Connecticut, Barber of Ohio, Baylies, Bayly, Blackledge, Borland, Breckenridge, Buchanan, Burrows, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cassidy, Conkling, Cushman, Cuthbert, Dane, Durfee, Dwight, Eddy, Findlay, Gebhard, Gilmer, Gross, Harvey, Hawks, Hendricks, Herrick, Hill, Hobart, Hooks, Jackson, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Kirkland, Litchfield, Lowndes, McCarty, McCoy, McDuffie, McSherry, Mallary, Matson, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Neale, Nelson of Massachusetts, Nelson of Virginia, Newton, Patterson of New York, Patterson of Pennsylvania, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Reed of Massachusetts, Reid of Georgia, Rhea, Rogers, Rugles, Russ, Russell, Sanders, Sawyer, Scott, S. Smith, W. Smith, Alexander Smyth, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stevenson, Swan, Tatnall, Taylor, Thompson, Tod, Tucker of Virginia, Vance, Van Rensselaer, Van

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Claim of Beaumarchais.

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Wyck, Walworth, Whipple, Williamson, Wood, Woodcock, and Wright.

NAYS—Messrs. Alexander, Allen of Massachusetts, Ball, Bigelow, Blair, Brown, Cannon, Chambers, Cocke, Conner, Cook, Crafts, Darlington, Denison, Edwards of Connecticut, Edwards of North Carolina, Farrelly, Fuller, Garnett, Gist, Gorham, Hall, Hemp-hill, Holcombe, F. Johnson, Lathrop, Leftwich, Lincoln, Long, McNeill, Mattocks, Mercer, Metcalfe, Murray, Overstreet, Phillips, Rankin, Rich, Ross, Sergeant, Sloan, Arthur Smith, Stoddard, Tomlinson, Tracy, Tucker of South Carolina, Upham, Warfield, White, Whitman, Williams of North Carolina, Williams of Virginia, Wilson, Woodson, and Worman.

MONDAY, April 1.

Mr. KEYES presented a petition of David B. Lee, of the city of Philadelphia, setting forth that he is the original inventor of the "flying machine," mentioned in the petition of James Bennett, presented to this House on the 25th instant, and praying that no right or privilege may be granted to said Bennett on account of said invention, but that Congress would grant to him and his heirs and assigns, for such length of time as Congress may think proper, the exclusive right and privilege of navigating the atmosphere, either with "flying machines" or with "navigable balloons," throughout the United States.—Referred to the committee appointed on the petition of James Bennett.

Mr. CAMBRELENG presented a memorial of the Chamber of Commerce of the city of New York, complaining of the unnecessary severity of the operation of the act of Congress of the 20th of April, 1818, entitled "An act supplementary to an act entitled 'An act to regulate the collection of duties on imports and tonnage, passed 2d day of March, 1799.'"

Mr. SERGEANT presented a petition of Anthony Gale, Lieutenant Colonel Commandant of the Marine Corps, complaining of the manner of conducting, and of the result of the trial, by which he was removed from his command of said corps, and praying that a new trial may be ordered, and that he may be heard in his defence.—Referred to the Committee on Naval Affairs.

Mr. WARFIELD presented a petition of sundry inhabitants of the counties of Frederick and Washington, in the State of Maryland, praying for the aid of Congress in making a turnpike road from the City of Washington to Fredericktown, in Maryland; which petition was referred to the Committee on Roads and Canals.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill to provide for the appointment of an additional judge for the Michigan Territory, and for other purposes; which was read twice, and committed to a Committee of the Whole.

Ordered, That the Committee on the Judiciary be discharged from the further consideration of the Message of the President of the United States transmitting a report of the Secretary of War in relation to a private claim to a piece of land in the river Delaware, known by the name of the

Pea Patch; and that the said Message and report do lie on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, in obedience to the instructions of the House reported a bill making appropriation to defray the expenses of missions to the independent nations on the American continent; which was read twice, and committed to the Committee of the whole House on the state of the Union.

Mr. F. JOHNSON, from the select committee to which was committed the bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory, reported the same with amendment, and the bill and amendments were ordered to lie on the table.

On motion of Mr. JOHNSTON, of Louisiana, the Committee on the Judiciary were instructed to inquire into the claim of Abner L. Duncan, for professional services in the suits brought against General Flournoy for embargoing Spanish vessels in 1812 and 1813, and to report thereon.

Mr. CONDIOT moved that the House do come to the following resolution:

Resolved, That, for the purpose of bringing the present session of Congress to a more speedy close, the stated hour of meeting of this House shall hereafter be 10 o'clock in the morning.

Ordered to lie on the table.

The engrossed joint resolution, relative to the disposition of the national paintings, executed by Colonel Trumbull, was read a third time and passed.

The House, on motion of Mr. SERGEANT took into consideration the bill to alter the times of holding the Courts in the Western District of Virginia, and for other purposes; which was ordered to be engrossed for a third reading.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to abolish the United States' trading establishment with the Indian tribes;" and "An act to provide for the collection of duties on imports and tonnage in Florida, and for other purposes." They have also passed a joint resolution directing a temporary deposit of the national paintings in certain committee rooms of the Senate; in which bills and resolution they ask the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the incidental expenses incurred in the Land Offices in St. Louis, Franklin, Huntsville, and Cahaba, in the year 1820, and the three first quarters of 1821; which were ordered to lie on the table.

CLAIM OF BEAUMARCHAIS.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I transmit to Congress the translation of two letters from the Minister of France to the Secretary of State, relating to the claim of the heirs of Caron de Beaumarchais upon this Government, with the documents

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therewith enclosed, recommending them to the favorable consideration of Congress.

JAMES MONROE.

WASHINGTON, March 29, 1822.

The Baron de Neuville to the Secretary of State.

WASHINGTON, February 26, 1822.

SIR: I have been instructed by my Court to call the attention of the Federal Government to the claim of the heirs of Beaumarchais. His Majesty's Government indulges a hope that their legitimate and well-founded rights will cease at least to be disputed, and that prejudices will yield at length to the influence of indisputable facts, especially when those prejudices are totally ungrounded, and have been abandoned by all those who have maturely examined the case.

The Beaumarchais claim was first produced in 1778.

The French Government has never ceased to support it with that interest which every Government owes to the just claims of its citizens. It has been earnestly recommended to Congress by Presidents Madison and Monroe.

Mr. Madison, in his Message of the 31st of January, 1817, expresses himself in the following terms:

"Considering that the sum of which the million of livres in question made a part was a gratuitous grant from the French Government to the United States, and the declaration of that Government that that part of the grant was put in the hands of M. de Beaumarchais as its agent, not as the agent of the United States, and was duly accounted for by him to the French Government; considering also the concurring opinions of two Attorneys General of the United States, that the said debit was not legally sustainable on behalf of the United States, I recommend the case to the favorable attention of the Legislature, whose authority alone can finally decide on it."

Mr. Monroe says, in his Message of January, 1818, "The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor in his Message to Congress of the 31st of January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it.

Mr. Gallatin, in his letter of the 2d of December, 1816, to the Duc de Richelieu, owns that a simple but explicit negative declaration on the part of His Majesty Government that the said million was not applied to the purchase of supplies furnished by M. de Beaumarchais to the United States would have removed the doubts entertained by the officers at the head of the Treasury Department when the account was settled there.

The Duc de Richelieu, whose veracity and loyalty are so well known, made the following answer to Mr. Gallatin on the 20th of December:

"I am therefore warranted, sir, after a fresh examination of the facts, in persisting in the declaration above stated, and in considering as a matter of certainty that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais." And, finally, the select committee charged with the examination of the business, and with reporting to Congress on the subject, acknowledge the rights of the heirs of Beaumarchais in the most solemn manner. "The committee" (says the reporter)

"have devoted much time, and made a laborious examination of the merits of this case; they have been able to discover no reason why the uniform declarations of the French Government should not be credited. There is no fact to contradict them."

"They fully agree with our great Revolutionary financier, Robert Morris, 'that, if any thing is due M. de Beaumarchais, the reputation of the country will be compromised until it is paid; that the payments of debts may be expensive, but that it is infinitely more expensive to withhold the payment. The former is an expense of money, when money may be commanded to defray it; but the latter involves the destruction of that source from which money can be derived when all other sources fail. That source, abundant, nay, almost inexhaustible, is public credit. The country in which it may with greatest ease be established and preserved is America; and America is the country which most stands in need of it.' In conclusion, the committee will remark that, in every point in which the case can be viewed by them, they are fully of opinion that the heirs of Beaumarchais are creditors of the United States."

To such an expose His Majesty's Government have nothing to add when they appeal to the equity of this Republic.

I have the honor to be, &c.

G. H. DE NEUVILLE.

The Baron de Neuville to the Secretary of State.

WASHINGTON, February 27, 1822.

SIR: I forgot to add to my letter of yesterday relative to the heirs of Beaumarchais—

1. The memoir or recital of the affair to 1817.

2. The President's Message of the 16th of January, 1818.

These pieces, which I have the honor to transmit to you, form, with the report of the committee of the House of Representatives of the 24th of February, 1818, the whole of the necessary documents. If they be not judged sufficient, if a careful examination of them do not produce deep conviction, it must be admitted, sir, that there are some prejudices which can never be overcome.

I dare say that truth never appeared more evident than in this unfortunate and interminable affair; why then does it meet with so much opposition?

Moreover, the heirs of Beaumarchais know that they will not in vain appeal to the justice of their judges: prejudice will never be able to overcome justice in their hearts; they, therefore, confine themselves to request of them a strict, a very strict examination of their claim: they only say to them, "We are ruined, because our father rendered services to the Republic, and our right is forgotten. Be pleased to read very attentively, and your justice will proclaim our right."

Accept, sir, the renewed assurance of my high consideration.

G. HYDE DE NEUVILLE,
Envoy Extraordinary, &c.

The Baron Hyde de Neuville to the Secretary of State.

WASHINGTON, March 30, 1822.

SIR: A report was put into circulation about two years since that the heirs of Beaumarchais were no longer proprietors of their claim, and that it had been sold to a third party.

Even if this were true, it would not in any degree invalidate their title; but I can attest, in the most positive manner, that the report is perfectly ridiculous. The claim still remains the property of M. de Beaumarchais's daughter. I will add, that it is the hope; indeed, the only remaining hope of that interesting lady and of her family. Why should she cease to rely upon a title so perfectly legitimate? This would argue a want of confidence in the equity of a whole nation.

The daughter of M. de Beaumarchais must therefore hope that justice will at last be done to her, and that, after suffering many privations, she will at last be able to hand down to her children the inheritance of her father.

Accept, sir, the assurance of my high consideration.

G. HYDE DE NEUVILLE.

The Message and documents were ordered to lie on the table.

SOUTH AMERICAN GOVERNMENTS.

Mr. SMITH, of Maryland, moved a reconsideration of the vote taken on Saturday, by which permission was refused to the member from Virginia, (Mr. GARNETT,) to spread upon the Journals his reasons for voting against the resolutions of this House to recognise the independence of the South American Governments. After a few explanatory observations by Mr. GARNETT, the motion to reconsider was supported by Messrs. MERCER, WRIGHT, MOORE, of Alabama, and WILLIAMS, of North Carolina, when the question was taken thereon and carried.

Mr. TAYLOR called for the yeas and nays, which were thereupon ordered.

Mr. T. thought it would be a precedent of a dangerous nature for the House to authorize a practice of this kind. If a member has a right to record his reasons for voting in the negative, it would be equally the right of those who voted in the affirmative, to spread their reasons on the record. The only case to be found, of reasons for a vote being spread upon the Journal, was that of Mr. Poindexter, then a Delegate from the Territory of Mississippi, having no right to vote, and whose motion respecting his own opinions was to be found on record. But that case was altogether different from the present, though the Delegate was not in that permitted formally to record his opinion. In the present case the member has voted; yet even that case admitted of much controversy and question. The vote of the gentleman from Virginia, (Mr. GARNETT,) was doubtless an independent and honest one, but he thought it inexpedient and improper to encumber the Journals with the speeches of members in support of their respective opinions.

Mr. MERCER thought the permission that had been granted to the gentlemen to vote the next day after this question had been decided, was affording a worse precedent than that which was now proposed.

Mr. FULLER remarked that this ought never to be a matter of courtesy, but should be either admitted or refused, as a matter of right at all times, and believing, as he did, that such a practice would

be improper and inconvenient, he was opposed to its adoption.

Mr. CAMPBELL, of Ohio, was in favor of the motion, and believed that no danger was to be apprehended from the precedent, for questions of such great magnitude very seldom occur.

Mr. NELSON, of Virginia, regarded the case of Mr. Poindexter to be a precedent of authority. So also was that of General Reed, who, on this very question had been permitted virtually to record his vote, even when absent from the House. And should it be said by a majority—if you will go with us, we will go to any length in assisting you to accomplish your wishes, but, if you have independence enough to vote in opposition to the sentiments of the House and the nation, we will withhold that privilege? Such a picture, he thought, ought not to be exhibited.

Mr. WARFIELD thought there could be no danger of the case being drawn into a precedent, for few questions occurred of so great importance as this, and it would always be in the power of the House to limit the privilege, if, in its operation, it should be found inconvenient. It was not now claimed on the ground of right, but of courtesy, and that courtesy had been accorded to several members of the House, in permitting them to vote after the time allowed by the rule.

Mr. TOMLINSON had made up his mind to vote in favor of the motion, but he would enter his protest against it as a precedent. He felt himself pressed to vote for it on the ground that similar indulgences had been granted to others on this question, but he regarded it as a principle, which, if allowed to acquire the authority of precedent, would be attended with very inconvenient consequences.

Mr. TAYLOR made a few remarks in reply, and was followed by Mr. COLDEN against the motion, and by Mr. GILMER in favor of it, when the question was taken thereon, and decided in the affirmative—yeas 89, nays 71, as follows:

YEAS—Messrs. Allen of Tennessee, Archer, Baldwin, Ball, Baylies, Bayly, Blackledge, Breckenridge, Buchanan, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Conkling, Conner, Cook, Crafts, Cushman, Cuthbert, Dufree, Dwight, Edwards of Pennsylvania, Eustis, Hall, Farrelly, Gebhard, Gilmer, Gist, Gorham, Gross, Hall, Hardin, Hemphill, Herrick, Holcombe, Hooks, Jackson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Jones of Tennessee, Kent, Kirkland, Leftwich, Litchfield, Long, Lowndes, McSherry, Mallory, Mercer, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Alabama, Morgan, Neale, Nelson of Virginia, New, Newton, Overstreet, Patterson of New York, Poinsett, Reid of Georgia, Rhea, Rogers, Ross, Ruggles, Russell, Scott, Sergeant, S. Smith, W. Smith, Alexander Smyth, Stevenson, T'atnall, Thomson, Tomlinson, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Van Rensselaer, Walker, Warfield, Williams of North Carolina, Williams of Virginia, Worman, and Wright.

NAYS—Messrs. Allen of Massachusetts, Barber of Connecticut, Barber of Ohio, Bateman, Bigelow, Blair, Borland, Brown, Burrows, Butler, Cassedy, Chambers, Cocke, Colden, Condict, Dane, Darlington, Deni-

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son, Edwards of Connecticut, Edwards of North Carolina, Findlay, Fuller, Harvey, Hawks, Hendricks, Hill, P. Johnson, Keyes, Lathrop, Lincoln, Little, McCarty, McCoy, McNeill, Matlack, Matson, Mattocks, Milnor, Moore of Pennsylvania, Murray, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reed of Massachusetts, Rich, Russ, Sanders, Sawyer, Sloan, Arthur Smith, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stoddard, Swan, Taylor, Tod, Vance, Van Wyck, Walworth, White, Whitman, Williamson, Wilson, Wood, Woodcock, and Woodson.

Mr. GARNETT then submitted his declaration, which he had reduced to an abbreviated substitute for that proposed by him on Saturday, to be entered on the Journal, which was as follows:

I, ROBERT S. GARNETT, a member from Virginia, make the following declaration: That I voted against the recognition of the independence of the late American provinces of Spain, because, considering it a question of *policy*, not of *principle*, I believed that no immediate advantage could grow out of it to either country, whilst many considerations, affecting the interest of both, rendered it at this time inexpedient. I am not opposed to the independence of the late provinces; on the contrary, in common with the rest of my countrymen, I heartily rejoice in its accomplishment, and in the prospects of freedom and happiness which it opens to them.

HORSES LOST IN THE SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, on the report of the Committee of Claims unfavorable to the memorial of the Legislature of Tennessee, claiming payment for horses lost in the Seminole campaign.

The question was upon the motion of Mr. J. JONES to strike out the word "not" in the resolution reported by the committee, so as to give it a direction favorable to the claim.

Mr. WILLIAMS, of North Carolina, explained and enforced the propriety of the report of the Committee of Claims, and opposed the motion in a speech of about three-quarters of an hour.

Mr. WILLIAM SMITH, of Virginia, asked the indulgence of the Committee, while he submitted to its consideration a very brief view of the reasons which had determined him to vote for this claim. He remarked, that the standing committee of the House, to whom this subject was referred, having resolved "that the claim of the volunteers engaged in the Seminole campaign, presented in the memorial of the General Assembly of the State of Tennessee, ought not to be granted," and having in their report furnished us with the principles and reasoning upon which that resolution is founded, it now becomes our duty to say, whether that committee is right or wrong in the view it has taken of this subject. While, sir, I entertain a proper respect for the Committee of Claims, and have great confidence in its intelligence, I must be permitted to say, that the reasoning employed by them in the case before us, is not at all satisfactory to my mind, I will now attempt, in as concise a manner as possible, to show its fallacy. The second section of

an act of Congress, passed on the 2d of January, 1795, gives to the soldier forty cents per day for the use and *risk* of his horse, arms, accoutrements, &c. Before we pronounce upon the merits of this claim, it seems to me to be important to ascertain, with as much precision as practicable, what was intended by the term *risk*, as used in the section to which I have just adverted. In the prosecution of a war, the soldier is liable to lose his horse by a variety of accidents; he may die from excessive fatigue, from unusually severe service, rendered necessary perhaps by the peculiar exigencies of the country, or he may escape from the possession of the owner and fall into the hands of the enemy, &c. For accidents of this character, which may happen, forty cents per day is provided. But, say the Committee of Claims, this law is susceptible of a more enlarged construction, and they tell us that the *per diem* compensation of forty cents was intended to embrace all losses of horses occasioned by the want of sufficient forage, and that such was the understanding of the soldier. With due deference to the opinion of that committee, this I do not and cannot believe. Such certainly could not have been the understanding of the soldier, because he knew the Government was bound to provide his horse with forage, he knew the pecuniary ability of the Government to make this provision, and he also knew that if it could not be had in one part of the country, it might be obtained in another, though perhaps at considerable expense. The express assurance of the Government that sufficient forage should be regularly furnished, seems to me necessarily to exclude the idea of a loss proceeding from the want of it. In this promise of the Government, the soldier reposed implicit confidence, and therefore in agreeing to accept forty cents per day, for the use and risk of his horse, did not at all look to a loss of the character we are now considering. The correct interpretation to be given to this law appears to me to be this. For all losses occasioned by the act of the Government, or rather a failure on its part to do that which it had engaged to do, it was intended the Government should be responsible, and the soldier agreed to encounter such casualties, and sustain such losses (horses killed in action excepted) as might happen, without any omission of duty or failure on the part of the Government—give to the law this construction, and you will give it full force and effect. I cannot, Mr. Chairman, agree with the committee in the opinion that the difficulty experienced by the Government in providing sufficient forage, legally excuses the non-performance of its stipulation. The promise to feed the soldier's horse was general, and subject to no condition or qualification whatsoever. Suppose this to be a case between two individuals, would or could it be pretended that the difficulty of executing the promise or contract would form any legal apology for the party who had failed to comply. Surely not. In illustration of this position, I beg leave to put the following case. A for a valuable consideration promises B to build him a house within a given period. Shortly after

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the contract, A experiences a sudden and unexpected change in his pecuniary circumstances; he is unable to provide workmen or to furnish the materials; the house is not built—B is injured by this violation of the contract, and brings his action to be compensated in damages equivalent to the injury sustained. Would it be competent for A to plead in bar of this action that he was unable to provide workmen or to furnish materials, and that therefore the house was not built? Surely not. The inadmissibility of such a defence must be conceded by every one who is at all conversant with legal principles. If, then, such a plea be inadmissible upon the violation of an individual contract, is it not, or ought it not to be, equally so in a case in which the Government is concerned? If it cannot protect an individual member of the community, why shall it shield the Government? And here, sir, permit me to remark that, in my legislative capacity, the same rules and principles which I apply to individuals I will make applicable to the Government under like circumstances. Justice is inflexible, and is equally stern in her demands upon the Government and upon the private citizen, however humble his condition in society may be.

I have, sir, read with some attention the memorial of the Legislature of Tennessee upon this subject, and it does seem to me that this claim is placed upon its true and proper basis by that memorial. The Legislature enforce it with very great propriety and much ability, upon the ground of a contract between the volunteer and the Government. They tell us that "service and fidelity 'was the engagement on the part of the volunteer; remuneration and maintenance of himself and his horse for the period of his engagement, the contract subsisting on the part of the Government.'" Has the volunteer performed his part of the contract? Yes, sir, most faithfully and honorably. His country's call was promptly obeyed. He was told his services were needed, and unhesitatingly surrendered all the endearments of social and domestic life, exchanged the comforts of a home and fireside for the dangers and difficulties of an Indian campaign, and intrepidly marched to the frontiers of your country to protect your defenceless wives and children against the tomahawk and scalping knife of a savage enemy. I will not, Mr. Chairman, attempt a description of his toils, his privations, and sufferings—suffice it to say, in the language of the memorial, "he met the enemy and subdued them." Thus, sir, has the volunteer performed his part of the contract, and performed it, too, with distinguished credit to himself, and honor to that country to which he now appeals for justice—yes, sir, for sheer justice. I hope the appeal will not be made in vain. How is it with the Government? Has it performed its part of the contract? No, sir. Look to the evidence of Quartermaster Gibson and Doctor Bronaugh. What do they tell you? They say, they verily believe the great loss of horses, during the Seminole campaign, was occasioned by the want of sufficient forage. Whose duty was it to provide this forage? The duty of the Government. Was

it provided? No. Has the loss sustained in consequence of this failure been repaired? No. If then this claim can be properly regarded (as I think it may,) in the light of a contract between the Government and the volunteer—if the volunteer has performed his part of the contract; and if a failure on the part of the Government, to do that which it stipulated to do, is sufficiently established, I would ask upon what principle can it be successfully resisted? Others, indeed, may see that principle, but I confess I am totally at a loss to imagine the ground upon which it can be even plausibly contended that this claim ought to be rejected. The memorial alleges that, after the close of the campaign, under the order of General Jackson, a number of horses were recovered from the swamps of Florida, sold, and the proceeds of the sale, amounting to the sum of \$2,142 45, applied to the credit of Government.

The Committee of Claims, after admitting the fact as stated, which, however, is abundantly proven without this admission, make this remark: "Heretofore this claim has been urged, on the 'ground that the United States failed to supply 'forage; but now it seems that the owners negligently and imprudently abandoned their horses.'" Is this so, sir? Is it true that the volunteers either negligently or imprudently abandoned their horses? If so, they are not entitled to relief. Is there, however, a tittle of evidence in support of this opinion of the committee? Is there a single fact which renders it even probable that the horses were negligently or imprudently abandoned by their owners? No, sir. The true cause of their abandonment is to be distinctly traced, not to any supposed negligence on the part of their owners, but to an actual failure on the part of the Government to supply them with sufficient forage. The Government, having thus, by this omission of duty, compelled the volunteers of Tennessee to abandon their horses, and having subsequently obtained possession of them, sold them, and passed the proceeds of the sale to the Treasury of the United States, cannot now refuse to pay this demand without subjecting itself to the charge of taking advantage of its failure to do that which it had pledged itself to do. But, say the Committee of Claims, the most urgent reason for the rejection of this claim is to be found in the fact, that the paymaster, contrary to law, furnished the troops with clothing, or money in lieu of clothing, and this by way of offset. Unfortunately, however, for this very urgent reason, the paragraph which introduces it, discloses the information that this item has been stricken from the account of the paymaster, upon a settlement with the proper officer of the Government. The Government, therefore, will not lose one dollar; no, not one cent, on this account. The paymaster is liable to the Government for a faithful and correct discharge of his duties; and he, by a resort to legal process, may compel the volunteers to refund all moneys received without proper authority.

Upon advertng, Mr. Chairman, to the Claims' Law of 1816, I find the following provision made by its first section: "That any volunteer or drafted

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'militiaman, whether of cavalry, mounted rifle-men, or infantry, who, in the late war between the United States and Great Britain, has sustained damage by the loss of any horse which has been killed in battle, or which has died in consequence of a wound therein received, or in consequence of failure on the part of the United States to furnish such horse with sufficient forage, while in the military service of the United States, shall be allowed and paid the value thereof."

The committee will observe, that this law is confined, in its operation, to the late war with Great Britain; but, sir, the same steady and impartial justice which dictated this provision in favor of the soldier of that war, requires a like provision for him who fought your battles in 1818. Why make a distinction? Why make an odious, invidious distinction? Why give to the one and withhold from the other? They have both served you faithfully and honorably. They have both defended your rights in the hour of danger. They are both citizens of one common country, and they both live under a Constitution which guarantees to all equal rights. Will not the rejection of this claim afford just cause of complaint to the volunteers of Tennessee? Will it not furnish them with some reason to say that this Government is not in practice what it professes to be in theory? I trust, sir, this cause of complaint will not be given by the decision of the committee upon the proposition now submitted to its consideration. Much more might be said in support of this claim, but so much time has been already consumed in its discussion, that I forbear to make further remark, or to trespass longer upon the patience of the Committee.

When Mr. S. had concluded—

The motion to strike out was further supported by Messrs. F. JONES, CANNON, H. NELSON, RHEA, and WARFIELD; and opposed by Messrs. METCALFE, MCCOY, and WILLIAMS of North Carolina, in reply; when the question was taken, and the motion to strike out was carried—ayes 90, when the Committee rose and reported the resolution as amended.

In the House, Mr. F. JONES moved that the report be recommitted to a select committee, with instructions to report a bill pursuant to the vote of the House.

Mr. LITTLE thought it should be recommitted to the Committee of Claims, instead of a select committee.

The proposition to refer it to a select committee was further supported by Messrs. EDWARDS of Connecticut and WILLIAMS of North Carolina, and carried. And Messrs. JONES of Tennessee, CANNON, W. SMITH, HOOKS, and WARFIELD, were appointed the said committee.

TUESDAY, April 2.

Mr. SERGEANT, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to define admiralty and maritime jurisdiction," reported the same without

amendment, and the bill was committed to a Committee of the Whole.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act granting to the corporation of the city of Mobile, in the State of Alabama, certain lots of ground in the said city," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. RANKIN, from the same committee, to which was referred the petition of Sally Vance, reported a bill for her relief; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, reported a bill to amend an act, entitled "An act further to regulate the entry of merchandise imported into the United States from an adjacent territory;" which was twice read, and committed.

Mr. NEWTON, from the same committee, reported a bill for the relief of John M. Moody and Samuel Moody; which was twice read, and committed.

Ordered, That the Committee on Roads and Canals be discharged from the further consideration of the letters of the Secretary of the Treasury, communicating the reports of the Commissioners appointed to inspect the Cumberland Road, and the accounts of Colonel David Shepherd; and that they lie on the table.

Mr. GORHAM, from the Committee on the Suppression of the Slave Trade, made an unfavorable report on the petition of William de la Carera; which was read, and ordered to lie on the table.

Mr. GORHAM, from the same committee, reported a bill in addition to "An act to continue in force an act to protect the commerce of the United States, and punish the crime of piracy; and, also, to make further provision for punishing the crime of piracy," which bill was read twice, and committed to a Committee of the Whole.

On motion of Mr. CUSHMAN, the Committee on the Public Buildings were instructed to inquire into the expediency of transferring the duties heretofore performed by the Commissioner of the Public Buildings, to the principal Architect.

The joint resolution from the Senate, providing for the disposition of Mr. Trumbull's Paintings for Congress, was read three times, and passed. According to this resolve, these Paintings (now three in number) are to be deposited in committee rooms of the Senate, until otherwise disposed of.

The bill from the Senate to abolish the United States' Trading Establishment with the Indian tribes, was twice read, and Mr. RANKIN moved to refer it to the Committee of the Whole, to whom has been referred the bill, reported in this House, "to regulate intercourse with the Indian tribes." On suggestion of Mr. TAYLOR, however, that the bill might require particular examination of its details by a committee, the bill was referred to the Committee on Indian Affairs.

The bill from the Senate to provide for the collection of duties on imports and tonnage in Florida, was twice read, and committed.

The engrossed bill to alter the time of holding

the courts in the Western District of Virginia, and for other purposes, was read a third time, passed, and sent to the Senate for concurrence.

The orders of the day being called for, Mr. SAWYER moved to postpone the orders of the day which precede the bill further to establish the compensation of officers of the customs, to alter certain collection districts, and for other purposes. But the House refused to give to this bill the preference requested.

The House then resolved itself into a Committee of the Whole on the bill to restore to the brig Diana the privileges of a sea letter vessel; a bill to establish the district of Blakeley; and a bill to continue in force an act declaring the assent of Congress to certain acts of Maryland and Georgia; reported to the House the two former without, and the latter with, amendments, which were concurred in, and the bills were respectively ordered to be engrossed for a third reading.

Mr. ROCHESTER asked permission to record his vote on the question upon the resolutions reported by the Committee of Foreign Relations, relative to the recognition of the independence of the South American Governments, and stated that he should not have requested this privilege had he not been detained from the House by illness at the time the vote was taken. By unanimous consent the permission was granted, and the name of Mr. ROCHESTER being called, he voted in the affirmative.

Mr. STEVENSON called for the consideration of the Message of the President of the United States relative to the Beaumarchais claim, with a view to referring it to a committee; and a running debate of considerable length took place upon the proper reference thereof, in which Messrs. STEVENSON, SMITH, of Maryland, McCox, RHEA, FARRELLY, and NELSON, of Virginia, took part—when it was finally referred to a select committee, in preference to a standing committee, as had been proposed.

Messrs. STEVENSON, CAMBRELENG, FRANCIS JOHNSON, DWIGHT, and BALDWIN, were appointed the said committee.

REDUCTION OF THE ARMY.

Mr. WALWORTH, from the Committee on Military Affairs, who were instructed, on the 23d of December last, to inquire and report, whether the Army had been reduced according to the provisions of the act, entitled "An act to reduce and fix the Military Peace Establishment of the United States," passed the 2d day of March, 1821, made a report thereon; which was ordered to lie on the table. The report is as follows:

The particular cases to which the attention of the committee has been directed, in which it is alleged there has been a violation of the act of the last session, are the following: The transfer of officers to a different corps from that to which they belonged previous to the reduction; the appointment of the Paymaster General, Towson, and of Lieutenant Colonel Fenwick, of the light artillery, as colonels of artillery; and the dismissal of Colonels Bissel and Smith, of the infantry, as supernumeraries; the provisional appointment of General Atkinson as Adjutant General, and the sub-

sequent appointment of Colonel Gadsden to the same office, in August last; the appointment of General Atkinson to be colonel, and Majors Bradford and Vose to be captains of infantry; and the dismissal of officers who were made supernumerary by such appointments.

In the reduction of the Army, under the law of the last session, the President appears to have been governed by the construction which had been given to the act of the 16th of March, 1802, under which the provisional army was disbanded, and to the act of the 3d of March, 1815, by which the Army was reduced at the close of the late war. The ninth section of the act of 1802, the fifth section of the act of 1815, and the twelfth section of the act of 1821, prescribe the manner of reducing the respective armies. Their provisions are substantially the same, and these several sections are nearly in the same words. By that construction given to the act of 1815, many valuable officers were disbanded, and many others were reduced from their former rank; yet your committee have not found that the correctness of that construction was ever doubted previous to the late organization of the Army. The Army Register of 1815 was before Congress during the session which commenced in December of the same year, and a law was passed for organizing the staff therein provisionally retained, and which had not been provided for in the former law. The manner in which the law of 1815 had been executed must have been known to most of the members of both Houses of Congress. It is, therefore, fairly to be presumed, that the framers of the act of March last, when they copied into the same the fifth section of the law of 1815, expected that it would receive the same construction as it had formerly obtained. Independently of arguments drawn from the practice under former laws, your committee are of opinion that the construction given by the President to the act of 1821, is the only reasonable one of which it is susceptible. The twelfth section directs the President of the United States to cause to be arranged the officers, non-commissioned officers, artificers, musicians, and privates, of the several corps in the service of the United States, in such manner as to complete out of the same the force authorized by the act. The fair construction of this section is, to authorize the President to organize the Military Peace Establishment, designated in the act, from all the various materials of which the Army was composed, and for this purpose to transfer from one corps to another. The corps of light artillery, and the rifle corps, are not, like the ordnance department, merged in a different corps, but are both abolished. If the President was to fill the various offices in the several corps authorized by the act, only from those who previously belonged to the same corps, all of those who belonged to the light artillery or rifle regiment would have been left out, and the country deprived of the services of many of its most valuable officers. The various general and staff officers of the former Army, including the paymaster general, must also be considered a part of the several corps mentioned in the twelfth section, out of which the new Army was to be formed, and might, like the officers of the light artillery or rifle regiment, be transferred to, or appointed in, a different corps; and, in like manner, the staff officers authorized by the act might be filled by transfers from any other corps of the old Army.

If the general and staff officers of the late Army are not a corps within the meaning of the twelfth section, it necessarily results that all the general and staff of-

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ficers of the new establishment should have been taken from such as did belong to some corps of the former Army. Such could never have been the intention of Congress.

The offices of colonel of artillery, to which Colonels Towson and Fenwick were appointed, and of Adjutant General, to which General Atkinson was provisionally appointed, were new offices, created by the act of March last. Previous to that time the artillery was not organized into regiments, and had no grade of office therein higher than a lieutenant colonelcy. In the staff of the Army there was an adjutant and inspector general residing at the Seat of Government, and an adjutant general to each division. The adjutant general of the Army authorized by the act of 1821, was intended to perform part of the duties which had been executed by the three others, but more particularly those which had been previously executed by the Adjutant and Inspector General. It has been objected that the Paymaster General was not a member of the general staff of the Army; that he was merely a civil officer, and as such was not embraced within the provisions of the law of the last session.

The office of Paymaster was created under the act of the 8th of May, 1792, under which he received sixty dollars per month, and the rations and forage of a major. By the act of 1802, fixing the Military Peace Establishment, the Paymaster of the Army was to be taken from the line of commissioned officers, and subjected to the rules and articles of war. In 1814 a salary was substituted for the monthly pay, &c. By the act of the 24th of April, 1816, for organizing the general staff, the Paymaster General is recognised as part of the general staff of the Army, and subjected to martial law; and, by the law of the last session, a Paymaster General is also provided for, as one of the officers of the Military Peace Establishment. Your committee can, therefore, see no reasonable grounds for the opinion, that the Paymaster General did not belong to the Army of the United States.

The office of colonel of artillery and adjutant general being original vacancies, it could not have been the intention of Congress to deprive the President of his Constitutional right to fill those offices in such manner as he should think fit, subject to ratification or rejection by the Senate. Colonel Gadsden was appointed to the office of Adjutant General long after the time prescribed for the reduction of the Army, and when the office was vacant, in consequence of the non-acceptance of the same by General Atkinson. The committee, therefore, cannot believe there was any violation of law, either in that appointment or in filling the office of Inspector General, made vacant thereby. The dismissal of the supernumerary officers was a matter of necessity, and expressly directed by the act. Whether the President has discreetly exercised the power vested in him by the Constitution, in making the selections for these or other offices in the Army, is a subject belonging exclusively to the Senate. It is but justice to the individuals selected to say, your committee have heard no objection to the character or competency of either of the gentlemen whose right to the appointment has been questioned. They were all highly esteemed and meritorious officers. Colonels Fenwick and Towson had been breveted for most distinguished services during the late war. While the committee pay this just respect to officers retained in service, they wish not to detract from the merits of the many valuable officers who have been left out of the Army, or reduced in rank.

The only inquiry to which the attention of the committee has been directed, is, whether there has been a violation of law? Your committee are of the opinion, that the President had the Constitutional right to leave out of service any officer of the Army, and appoint another in his place. This construction of the Constitution was distinctly adopted by the House of Representatives at the first session in 1789, by a very decisive vote, being in the proportion of five to three, and after a long and able discussion, in which Mr. Madison took a distinguished part. The late President Washington carried this construction into practical effect in the last year of his Administration, by removing a distinguished individual from the office of Minister to France, and the appointment of a successor during the recess of the Senate. Although this removal produced considerable excitement in the public mind, your committee have not been able to learn that its legality was ever doubted, or that the Constitutional right of the President to remove from office has been questioned since the discussion and decision above mentioned. This forms a conclusive answer to the objections to the appointments called razees, and the dismissal of officers of the grade to which others were reduced. By the construction of the act given to it by the President, and which your committee believe to be correct, the intention of Congress is carried into effect, and the Constitutional rights of the Executive and of the individuals concerned are left unimpaired. Your committee are therefore of opinion, that the Army has been reduced according to the provisions of the act, entitled "An act to reduce and fix the Military Peace Establishment of the United States," passed the second of March, 1821.

Mr. COCKE said, that he took leave to inform the House, that the report now offered was the report of a majority of only one of the committee; that this majority was obtained by a change of the members of the committee. When the resolution directing the inquiry, whether the act of the 2d of March, 1821, to reduce and fix the Military Peace Establishment of the United States, had been respected and carried into effect, was referred to the Committee on Military Affairs, a majority was then decidedly of opinion that the act had been disregarded.

DISTRICT COURT AT LOUISVILLE.

Mr. BRECKENRIDGE moved to discharge the Committee of the Whole from the further consideration of the bill to authorize the holding of a district court at Louisville, in the State of Kentucky; his object being to bring it directly before the House, that it might be acted upon without delay.

Mr. HARDIN objected to the course proposed. Adverting to the bill which had been received from the Senate, the object of which was altogether to abolish the admiralty jurisdiction of the district court for the Kentucky district, he said, that, were that bill to pass, there would be no occasion to pass this bill, because it was on account of the exercise of maritime jurisdiction only that a court was proposed to be held at Louisville. He wished the bill from the Senate to be first acted upon, and was therefore opposed to the present motion.

Mr. BRECKENRIDGE said, he hoped the Louis-

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ville bill would not be delayed until the bill from the Senate was acted upon. He knew that there were objections in this House to the bill from the Senate, and he did not know whether it would be acted upon at the present session. If acted upon, he did not know whether it would pass. It was of much importance that a district court should be held at Louisville, as nearly all the admiralty cases arose in that vicinity; and he hoped that this bill, to which there could be no objection, would not be made to await the fate of the bill from the Senate, in regard to which there was known to be a diversity of opinion.

Mr. J. T. JOHNSON took occasion to express the opinion, which he entertained, that the exercise of admiralty jurisdiction over the interior waters of the country, was an usurpation of power, under color of which individuals were unjustly deprived of their right to trial by jury. He found himself bound on this occasion to ask the House to let the fate of the two measures be the same. He believed that the jurisdiction of the district courts ought, upon fair construction of the law on the subject, to be restricted to trade connected with the great ocean. He could not consent to any construction of that law which goes to give to the district court authority to interfere in the municipal concerns of the State of Kentucky.

Mr. HARDIN insisted upon the propriety of first acting on the bill from the Senate, because, if it passed, there would remain no business whatever for a district court at Louisville. If that bill should not pass, he would cheerfully vote with his friend from Louisville, in favor of his bill. Mr. H. took occasion to express his opinion on the merit of the Senate's bill. He was against extending the jurisdiction of the Federal Judiciary one jot or one tittle further in the municipal concerns of the State than it was necessary to go, but he was against destroying the specific lien of hands, and persons supplying vessels, on those streams which are navigated by vessels as large as those which plough the ocean, and the owners of which are sometimes at a thousand or fifteen hundred miles from where the vessel obtains supplies, or employs hands. Mr. H. made some further remarks to show that to abolish the specific lien in such case, would be to destroy at once the steamboat navigation of the Western waters, &c.

The question being taken on the motion now to take up the Louisville bill, it was decided in the negative.

BOUNTY LANDS, &c.

Mr. WALKER moved that the House do come to the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of granting a bounty of land to the non-commissioned officers and privates who enlisted and served twelve months during the late war against Great Britain, and who by existing laws are not entitled to receive a bounty in land.

In offering his resolution, Mr. WALKER observed that he was not free from apprehensions that it might be unavailing, and had to regret that he could not make more favorable calculations on

the result, and he almost anticipated some objections to its adoption; not on the ground of principle, for it was evidently a subject worthy of inquiry, and demanded attention; but his fears arose from past experience, this being the third Congress in which he had made the same effort to effect a measure so equitable in its operations. And since his commencement as a member of this House, he had always viewed it as a radical defect in our military regulations, and ever entertained a wish for a more liberal policy; yet the attempts he had made, though unsuccessful, had by no means altered his opinion or abated his zeal in the pursuit of that which he felt to be his duty, in soliciting a claim of moral right and equal justice to every soldier; and the present Congress being composed of some new materials, many new members, perhaps with new opinions, had induced him on this proposition to hope for better success. The object of this resolution was to present to this House and to the nation the great inequality that has, and does now exist, in rewarding the services of the different classes of military men; soldiers who enlisted during the late war, in full confidence of obtaining a bounty of land from Government, which was promised, and now denied to a part of them. By the existing laws, or rather by the construction of those laws by the officers of Government, great injustice arose as it regards the rights of a certain class of military men. And we who are here, said Mr. W., in our legislative capacity, for the purpose of administering equal and indiscriminate justice to all our citizens, are morally bound to keep open doors; not give to some and withhold from others who have an equitable claim on Government for military services, and who are truly sufferers by the war. A number of our citizens, advanced in life, who had families, enlisted for five years or during the war, and continued in service some one, two, three years, when, impelled from the impulse of filial affection and care of their families, they procured substitutes, for which they gave more than their bounty wages, and returned home. Now, the question is, or ought to be, Who is responsible for the performance of the substitute, the Government or the original soldier? Mr. W. had always understood that, according to strict military rules, when a man was received in place of another, by the commanding officer, the original soldier, having no control over his future conduct, was exempt from any further accountability for his service. It was so in the Revolutionary war, and, he believed, the true discipline in all nations, although it had been otherwise considered in the late war. Another class who were enlisted were minors, who continued in service some of them near the expiration of their time, and were discharged at the request of their parents or guardians, as being under age. Sir, by the present system both these classes, the old and the young, are excluded from a bounty of land with their fellow-soldiers, although they rendered the same service, performed the same duties, encountered the same dangers, faced the enemy in the frozen regions of the North, marched to the sultry and sickly climate of the South, fought our

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battles, gained our victories, suffered all the privations of a military life, and, after having sustained innumerable hardships, done ninety and nine good turns in the service of their country, should, through misfortune, fail by the misconduct of their substitutes to fulfil the last day's duty, must be refused of their rights, go unrewarded, and turned off as castaways! This hard measure operates severely on the feelings as well as the interest of that class of our fellow-citizens. They may well exclaim, in the language of the poet,

"Oh cease! forbear to give the fatal stroke,
And wound the heart that is already broke."

Sir, I am gratified in being able to assert that I believe the district I represent has furnished more soldiers, during the late war, than any other section of the Union, in proportion to its population; among whom are some of that unfortunate description I have here noticed, who returned from the Army, their health impaired, their constitutions broken, their families made poor by their absence, and now without redress, unless Government should reward them with a bounty of land in proportion to their services. The recollections of past events often arrest our sensibility, and teach us to feel for others what we have felt ourselves in the old war. Let us, then, turn aside from the smooth and flowery paths of peace, in which we are permitted to tread, and view the toilsome march of our fellow-citizens through the dreary deserts and the storms of war, and, of all on earth, let the soldier be the last man who would have cause to complain of the injustice of his country. The object of this resolution is not to unbosom the Treasury and remunerate them out of the funds of the nation—but to give them a bounty in land, plant them in soil, allow them a lot of inheritance among their brethren, a home—a place for the old to lay his head, and the young to raise his family for posterity. In making these remarks, I trust I shall not fall under the suspicion of one who would lightly or wantonly be disposed to waste or misapply the public money. No, sir; the state of our finances requires the utmost economy; but I would not, nor could I, withhold either the one or the other from any of our citizens who have justly earned it by the sweat of their brow, or, what is much more precious, the spilling of their blood. Sir, we have already provided a pension for the old way-worn debilitated soldier of the Revolution, as a crutch to support him to the brink of the grave, and something to the disconsolate widow of the militia of the late war, and what remains but to do justice to these unfortunate soldiers—the only chasm in the military system? Grant them land, fill up the breach, and then, and not till then, will the rewards of your system be complete.

The question was then taken on agreeing to the said resolution, and decided in the negative.

GENERAL APPROPRIATION BILL.

The House then went into a Committee of the Whole on the bill making appropriations for the support of Government for the year 1822.

Various sections of the bill, containing the ordi-

nary appropriations according to existing laws, were agreed to.

The section to grant "compensation to the messengers in the Treasury Department, seven hundred dollars," being under consideration—

Mr. TRACY stated that he did not consider this allowance to be too great. He doubted whether it was even large enough; but he was well informed that it was customary in this, and he believed in the other departments, to grant the messengers certain privileges and allowances from the fund for contingent expenses. Mr. T. was desirous that these compensations should be explicit and defined. He, therefore, proposed to modify the section so as to allow eleven hundred dollars to the principal and assistant messengers, in lieu of all other allowances whatever. After a few remarks by Mr. SMITH, of Maryland, the question was taken thereon, and negatively; and the section was adopted as reported.

Mr. COCKE moved to add to the same section the words "which shall be in lieu of all allowances." The question was taken thereon, and carried—ayes 55, noes 49.

Mr. COCKE also moved to add similar amendments to the sections for the compensation to the messengers of the Comptroller's and Auditor's offices, which was agreed to.

Mr. COCKE further moved to strike out the appropriation for payment of two clerks to complete the duties of the Commissioner of the revenue, transferred to the office of the Fifth Auditor, and one clerk on the business of the agent of the Treasury, transferred to the same office. The motion was supported by the mover, and opposed by Mr. SMITH, of Maryland, and Mr. BALDWIN, when the question was taken and the motion negatived.

Mr. BUTLER moved to appropriate for one clerk only instead of two, to complete the duties of the Commissioner of the Revenue, and the question being taken thereon, was lost, ayes 8.

Mr. COCKE then moved to strike out the section for the compensation of the clerk on the business of the agent of the Treasury; which was negatived without a division.

Mr. COCKE further moved to strike out the section to provide for the "compensation to an additional clerk as allowed by acts of appropriations since the 1st of January, 1819; and also for an assistant to the chief clerk." After a brief discussion thereof, by Messrs. COCKE and SMITH of Maryland, the question was taken and the motion prevailed—ayes 54, noes 43.

Mr. COCKE moved to strike out the clause for providing compensation for three additional clerks in the office of the Commissioner of the Land Office; which was supported by the mover, and opposed by Mr. COOK, and carried—53 to 42.

The clause for allowance for contingencies, &c., in the Treasury Department, being under consideration—

Mr. COCKE thought the sum proposed by the Committee of Ways and Means (\$40,200) was too high.

Mr. TRACY expressed his opinion to the same

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effect. He had attended particularly to the subject, in pursuance of his duties as a member of the retrenchment committee (so called,) and he thought many disbursements might with propriety be curtailed, and he expressed the opinion that, if the decision of the House in relation to the messengers was retained, an appropriation of \$35,000 would be adequate to the purpose.

After a few remarks by Mr. SMITH, of Maryland, the question was taken on filling the blank with the sum of \$40,200 and negatived; after which,

Mr. TRACY moved to fill the blank with the sum of \$36,000; which was put and carried.

The subject of "compensation to the clerks in the office of the Ordnance," being under consideration—

Mr. COCKE moved to strike out the same, and, after a brief discussion of the subject, in which Messrs. COCKE, SMITH, of Maryland, TUCKER of Virginia, WALWORTH, and FARRELLY, participated, the question was taken, and lost, without a division.

Mr. COCKE moved to strike out the clause "for compensation to the clerks in the Engineer Office," and to insert in lieu thereof, the words "for extra compensation for officers detailed to perform the duties of the Engineer Office." A desultory debate ensued hereon, in which Messrs. COCKE, WILLIAMS, of North Carolina, TUCKER, of Virginia, SMITH, of Maryland, and NELSON, of Virginia, took part, when Mr. COCKE withdrew the motion.

Mr. COCKE moved to strike out the section for "compensation to the clerks in the office of the Surgeon General," and, the question being taken thereon, it was carried.

Mr. WILLIAMS, of North Carolina, moved to amend the section "for the contingent expenses of the said department, including fuel, stationery, and other contingent expenses," by striking out the word *said* (department) and inserting, in lieu thereof, the word *war*, which was put and carried, and then, on motion of Mr. WARFIELD, the Committee rose reported progress, and obtained leave to sit again.

WEDNESDAY, April 3.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act for the relief of Andrew Mitchell," reported the same without amendment, and it was committed to a Committee of the whole House.

Mr. RANKIN, from the Committee on the Public Lands, reported a bill concerning pre-emption rights in the Territory of Arkansas; which was read, and committed to the Committee of the Whole.

Mr. RANKIN, from the same committee, also reported a bill for the relief of the registers and of the receivers of public money, of the several land offices; which was read twice, and committed to a Committee of the Whole.

Mr. RANKIN also reported a bill providing a

compensation to receivers of public money for their services in transmitting public money to safe places of deposit; which was read twice, and committed to a Committee of the Whole.

Mr. JONES, of Tennessee, from the committee appointed for the purpose, reported a bill for the relief of the officers and volunteers engaged in the late campaign against the Seminole Indians; which was read twice, and committed to the Committee of the Whole.

Ordered, That the Committee of the Whole to which is committed the bill from the Senate, entitled "An act to define admiralty and maritime jurisdiction," be discharged from the consideration thereof, and that it be committed to the Committee of the whole House, to which is committed the bill to authorize the holding a district court at Louisville, in Kentucky.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act authorizing the adoption of measures to try the title of the Marquis de Maison Rouge to certain lands;" and "An act for the relief of the legal representatives of Joseph Hodgson, deceased;" in which bills they ask the concurrence of this House.

Mr. WOOD submitted the following resolution:

Resolved, That the standing Committee on Indian Affairs be instructed to inquire into the expediency of establishing a new department, to be denominated the Department of Indian Affairs; to embrace a superintendent of the department resident at the Seat of Government, the establishment of Indian agencies, and the regulation of Indian trade.

Mr. WOOD supported the resolution by presenting a variety of considerations to show its expediency; but, the question being taken thereon, it was negatived.

On motion of Mr. CONDUCT, the Committee on the Judiciary were instructed to inquire whether any, and what, further measures are necessary for the more speedy recovery of such sums of money as are due from public defaulters to the United States.

The bill from the Senate to establish the district of Blakeley, was read a third time, and passed.

The following engrossed bills, viz: An act to revive and continue in force an act declaring the assent of Congress to certain acts of the States of Maryland and Georgia; and an act restoring to the ship *Diana* the privilege of a sea-letter vessel, were read a third time, and passed.

APPROPRIATION BILL.

The House resolved itself into a Committee of the Whole on the unfinished business of yesterday—the General Appropriation bill.

The question for consideration was upon filling the blank for the contingent expenses of the War Department.

Mr. SMITH moved to fill the blank with the sum of \$6,000.

Mr. COCKE opposed the motion on the ground that the surplus over the amount (\$5,000) originally proposed was contemplated for other purposes than for defraying proper expenses of the

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Secretary's office, and he thought this increased amount should not be allowed.

The subject was further discussed by Messrs. SMITH of Maryland, TAYLOR, McDUFFIE, WILLIAMS of North Carolina, TOD, TRACY, and TUCKER of Virginia, when the question was taken on Mr. SMITH's motion, and carried—ayes 64, noes 46.

Mr. COCKE moved to strike out the clause, "for compensation of three clerks and a draughtsman, (for the Commissioners of the Navy Board,) as allowed by acts of appropriations since the first of January, 1819." The motion was supported by Messrs. COCKE and MALLARY; and opposed by Messrs. SMITH of Maryland, LITTLE, and McDUFFIE; when the question was taken, and negatived without a division.

Mr. C. also moved to strike out the clause providing "for compensation to the Commissioner of the Public Buildings at Washington City."

The motion was supported by the mover, and by Messrs. HARDIN, WHIPPLE, STEVENSON, TRACY, WILLIAMS of North Carolina, and VAN WYCK; and opposed by Messrs. SMITH of Maryland, WRIGHT, NELSON of Virginia, RHEA, MERCER, WOOD, BALDWIN, COOK, and JONES of Tennessee; when the question was taken, and carried by a large majority.

And, on motion, the Committee rose and reported progress, and obtained leave to sit again.

PUBLIC DEFAULTERS.

Mr. KIRKLAND submitted for consideration the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of such officers of the United States as are intrusted with public moneys by virtue of their office, who shall apply the same to any purpose or purposes incompatible with the duties of their office, whereby the United States shall sustain a loss.

In introducing the resolution—

Mr. KIRKLAND observed that, as the resolution contemplated introducing a provision into our laws of an unusual character, it might not be deemed improper for him to assign, briefly, a few of the reasons which have induced him to present it. I find, said Mr. K., from an examination of our statute book, that there is no provision for the punishment of public defaulters, and that they are not subject to any penalty for the misapplication and embezzlement of the public moneys intrusted to their care; and they are responsible only in a pecuniary point of view; that there is no remedy but a civil suit, pursued in the usual course between debtor and creditor, for the recovery of the money which has been misapplied by the officer; that there is no punishment, no penalty, but such as exists between debtor and creditor in the ordinary course of business in society. It is true, said Mr. K., that, in some cases, security is required of the officer, for the faithful performance of his duties, but in most cases, perhaps nine out of ten, where the principal is insolvent, the security will be found unable to respond to the public; and if

it should sometimes fortunately happen that the security is solvent, what follows? A petition from the bail and his friends, setting forth, in strong language, the utter ruin of himself and family, if he is compelled to pay the money, and making a forcible, and frequently a successful, appeal to the sympathies of the House for relief. The consequence is, that, after great expenses incurred in the prosecution of both principal and security, we discharge the one, and cancel the bond of the other. It is not believed, that there is enough collected from the public defaulters to pay the aggregate of the expense incurred by the different prosecutions against the officers who have embezzled the public money.

It may be said, Mr. K. remarked, that you have the integrity of the officer; but this is found, in too many instances, a poor security indeed. The documents upon your table show most abundantly that little, very little trust, is to be placed in the integrity of many of your officers who are intrusted with the public money. Here you find defaulters for thousands and tens of thousands, amounting in the aggregate to millions. These documents, and the daily information we have in relation to the loss of our public money, furnish lamentable proof of the entire want of moral principles in many of the public officers, and a most shameful disregard of their public trusts. Your public defaulters are to be found, not only in the Army and Navy, but in the civil department—your collectors of the revenue, marshals, district attorneys, clerks of district and circuit courts, receivers of public moneys for the sale of lands, Indian agents, and those employed to pay the pensions given to Revolutionary soldiers. We have now upon our tables evidence of one pension agent who has misapplied (if the report of our officer is true) ten thousand dollars of moneys placed in his hands to pay the veteran soldiers of the Revolution—an act that should brand him with perpetual infamy. The present laws are wholly inadequate to secure the Treasury from loss by the misconduct of the public officers. There is no provision adequate to effect this object. And while we are upon one hand busily engaged in devising ways and means to fill our Treasury; and while some of our most able, distinguished, and industrious members, are engaged unremittingly upon the subject of retrenchment in the public expenditures; and different committees are inquiring minutely, and with great vigilance, into the expenditures in the various departments of the Government,—there is an imperious necessity for making some provision which shall more effectually guard the Treasury against loss by the embezzlement and misapplication of public moneys by those to whom they are intrusted. It would not upon this occasion, said Mr. K., become me to go minutely into the details of a law making the necessary provisions to guard our public Treasury, and to secure fidelity to the public officers. This would be the peculiar province of the highly respectable committee whose duty it will be by the resolution to make the inquiry, and to report a bill; but he could not forbear offering a few ideas upon the provisions which it may be

found necessary to insert in the law. The officer intrusted with public moneys should consider the trust a sacred one; no temptation, however strong, should induce him to violate it. He ought to consider his obligation to the public paramount to every other. No other relation in society can have such strong claims upon him as the people for whose benefit the moneys are committed to his care; and he who will knowingly and deliberately violate a trust so sacred should be held infamous, and no longer be admitted into the society of the honest and virtuous part of the community. I would render him, said Mr. K., ineligible to any public office of honor, profit, or trust. I would immediately cause him to be dismissed from public employ. I would leave it discretionary with the court before whom he was tried, upon his conviction, to cause him to be fined, or imprisoned, or both, at the discretion of the court. Nay, sir, I would go somewhat further—I would leave it in the discretion of the court, in very enormous cases, to sentence the culprit to the penitentiary. I would place him beside the felon who counterfeits your coin, who alters your public records, and who forges your bank paper. This would not be too severe a punishment for him, who, in his wild speculations, has used your money to the amount of tens and hundreds of thousands—who has applied it to the aggrandizement of his family; and who has for years rioted upon the fruits of his iniquity, in living in splendor and show; and who, when he is called on to account, laughs at your public officer, and treats his calls for the public moneys with neglect and contempt.

As the law now stands, this very defaulter is eligible to public office; and it is not, if he (Mr. K.) was rightly informed, a very uncommon occurrence, that the defaulter and his friends are seen petitioning the Executive for public employ, and sometimes, he feared, with success. Public defaulters are now considered merely in the light of unfortunate debtors; as those who, in the course of their business, have from events beyond their control, been rendered insolvent, and who are justly entitled to the sympathies, both of the public and of individuals. It is a shame, said Mr. K., that a public defaulter should, in the view of the laws, and in that of society, be placed upon an equal footing with an honest and unfortunate debtor, in whose behalf the whole community sympathize. It is time, high time, that the laws should speak a different language. If a provision had been inserted in your statute book, said Mr. K., at the commencement of the Government, similar in its provisions to the one contemplated by the resolution now presented, it would, in all probability, have saved to the nation many millions of the public money. Mr. K. anticipated from the adoption of the resolution (if the committee should report in conformity to it) very salutary effects. The people of this country have a high sense of integrity. We boast, said Mr. K., of our public and private virtue; and it is time that we should, from our statute book, speak a strong and decisive language to all those who embezzle the public money. They should learn that they can

no longer violate the sacred trust committed to their charge with impunity. Mr. K. concluded by observing that he anticipated an unanimous vote of the House in the adoption of the resolution, and he hoped the committee to whom it would be referred would find time to report a bill at the present session.

Mr. BASSETT was in favor of the resolution, but wished to extend it to those who had the public property in keeping, and he proposed a modification to that effect, by inserting in the body of the resolve the words "or with the safe keeping of public property;" which modification was assented to by the mover.

Mr. HARDIN was apprehensive, that the punishment which seemed to be contemplated by the gentleman from New York (Mr. KIRKLAND) would be found too severe; and, in such cases, a law, if too severe for public sentiment to sustain, would become a dead letter. Mr. H. did not think public sentiment was such as to brand the public defaulter with infamy. On the contrary, the proceeds of his defalcation support him and enable him to drink his wine and give his dinners; nor would it be possible to put a man in the penitentiary merely for being a defaulter. Mr. H. adverted particularly to the case of the district attorneys, and thought the only course in relation to them would be to make them give bond for the faithful performance of their duties, and also to require, if they fail to account, that that failure should vacate their offices.

Mr. WALWORTH moved to insert the words "or agent" after the word "officer," which was assented to by the mover.

Mr. SMITH moved further to amend the resolution by inserting after the word "shall," the words "with intention to embezzle the same." The motion was opposed by Messrs. COCKE and HARDIN, and supported by the mover, and lost.

Mr. CONDUCT moved to strike out the words "by which the United States shall sustain a loss." Mr. C. was disposed to repress all speculation by the holders of the public moneys. The public moneys should be kept separate and sacred for the public service, and he would not suffer the public agents to use them for any other purpose, however well able they might be to replace them when called for.

Mr. KIRKLAND was not inclined to carry his prohibition so far. If the officers and agents of the Government can and do respond, according to law, that, he thought, was all that need be required of them.

Mr. CONDUCT replied. Mr. F. JOHNSON also made a few remarks in favor of the proposed amendment.

Mr. MITCHELL, of South Carolina, also expressed himself in favor of the amendment. Looking over the document which had been referred to, (the list of unsettled balances,) he thought its contents were a disgrace to the Government—a libel on the country. Until he saw that document, he did not think that the country was capable of producing such a one.

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Finally, Mr. KIRKLAND assented to the modification proposed by Mr. CONDUCT.

Mr. COOK proposed to add to the resolution the following sentence: "And, also, into the expediency of requiring all such officers to be dismissed from office upon failure faithfully to account for the money or property so confided to them." This proposition was agreed to by the House, and the resolution, as modified, was thereupon adopted.

THURSDAY, April 4.

Mr. CAMPBELL, of Ohio, from the Committee on Private Land Claims, to which was referred the bill from the Senate, entitled "An act for the relief of the heirs and representatives of Alexander Montgomery," made a report thereon, proposing amendments to the said bill, and the bill and report were committed to a Committee of the Whole.

Mr. COOK, from the Committee on the Public Lands, to whom the subject was referred by resolution, on the 21st of January last, reported a bill to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan, which were read twice and ordered to lie on the table.

Mr. EUSTIS laid before the House a letter from the Secretary of War, addressed to the chairman of the Committee on Military Affairs, communicating a report of the chief engineer, containing the information sought by the resolution of the 19th of February last, in relation to cadets educated at the Military Academy at West Point, which was ordered to lie on the table.

Mr. COOKE moved that the House do come to the following resolution:

Resolved, That a select committee be appointed, whose duty it shall be to sit in the recess of Congress, and inquire into the affairs of the several Departments of the Government; that said committee have power to send for persons and papers, and that they be required to make report to Congress at an early period of the next session.

The resolution was ordered to lie on the table.

On motion of Mr. JOHNSON, of Louisiana, the Committee on Commerce were instructed to inquire into the expediency of allowing a drawback on coal consumed by steam vessels, and of authorizing said vessels to take coasting licenses.

On motion of Mr. MOORE, of Alabama, the House took into consideration a bill from the Senate, entitled "An act supplementary to an act to alter the terms of the district court in Alabama;" which was ordered to be read a third time to-morrow.

A bill from the Senate for the relief of the legal representatives of Joseph Hodgson, deceased, was twice read and referred to the Committee of Claims.

A bill from the Senate to authorize the adoption of measures to try the title of the Marquis de Maison Rouge to certain lands, was twice read and referred to the Committee on Claims.

A message from the Senate informed the House that the Senate disagree to the amendment of thi

House to their amendments to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same;" and they have passed bills of the following titles, to wit: "An act to designate the boundaries of a land district, and for the establishment of a land office in the State of Indiana;" "An act to establish an additional land office in the State of Illinois;" "An act to perfect certain locations and sales of public lands in Missouri;" and "An act for the relief of Daniel Carroll, of Duddington, and others;" in which bills they ask the concurrence of the House.

LETTER FROM THE SECRETARY OF WAR.

The following letter was presented to the House by Mr. COOK, read, and, with the documents accompanying it, ordered to be printed.

DEPARTMENT OF WAR, April 3, 1822.

SIR: I have received your letter of the 2d instant, enclosing a copy of the report of the select committee upon the subject of examining the land offices in Ohio, &c., and, in reply to your inquiries, I have to state that the committee is under a mistake in stating that Mr. Rodney and Mr. Baldwin, the former a member of the Senate, and the latter of the House of Representatives, were "employed and paid as counsel under the direction of the present Secretary of War."

The precise period at which the former was employed cannot be ascertained, but it was previous to July, 1820. He was paid for his services the 8th of November, 1820, before he became a member of Congress. Mr. Baldwin was employed by Major Woolley, of the Ordnance, in the Spring of 1817, before I came into the War Department, and previous to taking his seat in Congress, in the case of Daniel Dekar, a soldier in the United States' service, who had been indicted for murder, for which service Mr. Baldwin has not yet been paid. He was also employed before I came into the Department, and, it is believed about the same time, by General Tannehill and Major Woolley (who had been appointed commissioners, in 1815, to sell certain lots of land belonging to the Government at Pittsburg,) in an indictment of the Commonwealth of Pennsylvania against John Young, the auctioneer, for selling the lots without paying the auction fees. For this service he was paid, in 1820, \$100. It cannot be ascertained, from the records of this office, that any part of the service was rendered subsequent to the time of his taking his seat in Congress.

In relation to the employment of Mr. Morrow and Governor Worthington in 1812, I herewith enclose a copy of the letter of instruction to them, and a letter from the Third Auditor, which will give all the information in relation to it which can be obtained from this Department.

In "the case of a member of the House of Representatives in the present Congress who is employed under the authority of the War Department as a superintendent of a fortification of the United States, for which he receives an annual compensation," and which I understand from your letter refers to Mr. Hill, from Maine, I find, on examination, that he was employed by General Ripley, in 1816, to take charge of the fort and other public property at Phippsburg, in Maine, and that he has received a compensation averaging \$116 50 per annum. The enclosed com-

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munication from the Second and Third Auditors of the Treasury Department contain all of the facts in relation to it within the knowledge of this Department. It is proper to observe that it does not appear that the account was ever submitted to the War Department for its approval, as the Auditors considered the authority of the commanding officer sufficient for its allowance, and that I had no knowledge that Mr. Hill was so employed.

I have the honor to be your obedient servant,
J. C. CALHOUN.

Hon. D. P. Cook,
House of Representatives.

ALLOWANCE OF PENSIONS.

On motion of Mr. LONG, the House then took into consideration the bill to revive and continue in force certain acts concerning allowances for pensions upon a relinquishment of bounty lands.

Mr. LONG was in hopes that the bill would not meet with much opposition. If it ever was right (which he believed it was) to pass the law, it was right that all should equally have the benefit of it as intended. To this end it would become necessary to revive the law, as it had now expired, before they all had applied. If, however, gentlemen felt any disposition to vote against the bill, he hoped they would reflect, and see the situation of those poor widows and children as it would be if the House refuses to pass the bill. Congress, said he, has heretofore passed a law which held out to them some relief. We may naturally suppose that they have applied as soon as they knew there was a law for their relief; but, to apply effectually, it not only required some time, but was attended with considerable expense in getting their papers in due form, which was done generally by professional men; a class of men who are in the habit of being well paid for their services. In some cases the expense was more than those applicants were able to bear—and, after they have expended every cent they were worth in setting forth their claim, they are informed that the law has expired, and that they are not now entitled to what was intended for them, merely because they have not applied within a certain day. It cannot be expected, said Mr. L., that a poor woman and children, settled down on some remote corner of the earth, constantly engaged at home in procuring bread, could know any thing about the operation or existence of the laws of Congress. He hoped, therefore, that the circumstance of their not applying before the law expired, would not be urged as an objection to the passage of the bill, and that we should not be found ready to snap at this little advantage that may be here taken of the poor and ignorant. He was as much opposed to an improper expenditure of public money as any member of this House, and would go as far as any gentleman in his opinion ought to go, to bring our expenditures within the amount of our revenue, which he conceived to be the indispensable duty of this House; but he could not consent to begin here, and withhold this pitiful sum from the widow and fatherless, who have lost him who ought to have been their protector, whilst engaged in the service of his country and protection of our lives and liberties.

The bill was thereupon ordered to be engrossed for a third reading.

APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the General Appropriation bill.

Mr. COCKE moved to strike out the clause for the contingent expenses of the Attorney General's office, including compensation to the messenger; and after remarks thereon by Messrs. COCKE, TAYLOR, and HARDIN, in favor, and by Messrs. SMITH of Maryland, NELSON of Virginia, WARFIELD, TUCKER of Virginia, and WRIGHT, against the motion, the question was taken and the proposition was adopted—ayes 70.

Mr. COCKE moved to fill the blank in the clause providing for defraying the expenses of the supreme, circuit, and district courts of the United States, and for defraying the expenses of prosecutions for offences against the United States, &c., with the sum of "twenty," instead of "thirty" thousand dollars, and after a discussion thereof by Messrs. COCKE, SMITH of Maryland, and JONES of Tennessee, the motion was negatived, and the blank was filled as recommended by the Committee of Ways and Means.

Mr. COCKE moved to fill the blank in the clause for the support and maintenance of lighthouses, beacons, buoys, &c., with the sum of ten thousand, instead of forty-one thousand one hundred and four dollars and sixty-eight cents, as recommended by the Committee of Ways and Means; and, after a discussion of the subject by Messrs. COCKE, SMITH of Maryland, MILNOR, and NEWTON, the question was first taken, pursuant to the rules of the House, upon the largest sum, which was carried, and thereby Mr. COCKE's motion was indirectly negatived.

The clause for surveying the public lands of the United States being under consideration—

Mr. STERLING, of New York, proposed to fill the blank with the sum of "one hundred," instead of "one hundred and eighty thousand" dollars. A discussion ensued thereon, in which the amendment was supported by Messrs. STERLING of New York, TON, COCKE, COLDEN, and CAMPBELL of Ohio, and opposed by Messrs. JONES of Tennessee, HENDRICKS, and RANKIN, and some explanatory observations were made by Mr. SMITH of Maryland, and Mr. BATES, but, before any question was taken thereon—

Mr. COLDEN moved to insert, after the word "surveying," a clause confining the appropriations for that purpose to the expenses to be incurred during the current year; to which Mr. RANKIN proposed to prefix the words "actually performed," which was assented to by the mover, and the amendment, as modified, was adopted.

The question then recurred upon filling the blank with the largest sum (\$180,000;) which was put, and lost by a large majority.

Mr. SMITH, of Maryland, then proposed the sum of \$130,000; which was also put and negatived.

Mr. WALWORTH named \$75,000.

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Mr. McCox proposed \$50,000.

The question was taken upon filling the blank with the sum of one hundred thousand dollars, as proposed by Mr. STERLING, and was carried.

Mr. Cook moved to add to the clause the following words: "and for arrearages due for surveys made in the year 1821 ——— dollars."

The object of the amendment offered by Mr. Cook was to appropriate \$80,000 to pay for surveys of the public land in the States of Illinois and Missouri, and the Territory of Arkansas, which were made under the direction of William Rector, the Surveyor General for those States and Territory, beyond the amount authorized to be surveyed, in consequence of a misinterpretation of the instructions of the Treasury Department. The grounds taken against the making the appropriation were, that the surveys were unauthorized by law, and that Congress was not bound to pay for it, and that it had been represented that the surveying was not well done, and ought not, even if authorized by law, to be paid for. Mr. C. urged, at large, that an honest mistake of the officer ought not to be used to the prejudice of the honest laborers who had surveyed the land under contracts made with an officer acting in the line of his duty, though by an honest error he exceeded the amount of appropriation. Mr. C. said there was the only legal evidence of the manner in which the work had been done, in its favor. The plats, he understood, had been returned and accepted; and mere flying reports of fraud should not overrule regular and official evidence.

The motion was further supported by Mr. J. S. JOHNSTON, and opposed by Messrs. COLDEN, CAMPBELL of Ohio, and Mr. TOP, when the question was taken, and the motion was negatived without a division.

The Committee then rose and reported progress, and obtained leave to sit again.

FRIDAY, April 5.

Ordered, That the Committee of Claims be discharged from the further consideration of the bill from the Senate, entitled "An act for the relief of the legal representatives of Joseph Hodgson, deceased," and that it be referred to the Committee on the Judiciary.

Mr. RICH, from the Committee of Claims, made a report on the petitions of Joseph Dutton, Samuel Walker, and of John Martin, Samuel Peterson and Hannah Peterson, accompanied by a bill for their relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, to which was referred the bill from the Senate, entitled "An act for the relief of William Nott, Stephen Henderson, and Nathaniel Cox, syndics of the creditors of George T. Phillips, late of the city of New Orleans, deceased," reported the same with amendments; and the bill and amendments were committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee

of Ways and Means, reported a bill making appropriations to carry into effect a treaty made at Chicago, and a treaty made at Edwardsville; which was read twice, and ordered to lie on the table.

Mr. Cook, from the Committee on the Public Lands, reported a bill for the relief of William Biggs; which was read twice, and committed to a Committee of the Whole.

Mr. Cook, from the same committee, also reported a bill confirming the title to a tract of land to Alzira Dibrieu and Sophia Hancock; which was read twice, and ordered to lie on the table.

On motion of Mr. STERLING, of New York, the Committee on the Public Lands were instructed to inquire into the expediency of reducing the compensation allowed to the surveyors of the public lands, and to make further provision to prevent fraud and mistakes in the surveying of the same.

The bill from the Senate, entitled "An act supplementary to an act entitled an act to alter the terms of the district court in Alabama," was read the third time, and passed.

An engrossed bill, entitled "An act to revive and continue in force certain acts concerning the allowance of pensions upon a relinquishment of bounty lands," was read the third time, and passed.

Mr. WRIGHT gave notice that he would, on Monday next, move the House for leave to bring in a bill "to erect a monument to the memory of the late Baron de Kalb, in the city of Annapolis."

The House proceeded to consider the message from the Senate announcing their disagreement to the amendment of this House to their amendments to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same." Whereupon, it was ordered that the said bill do lie on the table.

Bills from the Senate of the following titles, to wit: 1. An act to designate the boundaries of a land district, and for the establishment of a land office in the State of Indiana; 2. An act to establish an additional land office in the State of Illinois; 3. An act to perfect certain locations and sales of public lands in Missouri; and, 4. An act for the relief of Daniel Carroll, of Duddington, and others, were severally read the first and second time, and referred; the first, second, and third, to the Committee on the Public Lands, and the fourth to the Committee of Claims.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act for the relief of the sureties of Joseph Pettipool;" and "An act for the relief of Joseph C. Boyd;" in which bills they ask the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting copies of the reports made to the Treasury Department by the several incorporated Banks of the District of Columbia, showing the state of their affairs at the commencement of the present year; which letter and reports were ordered to lie on the table.

APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the General Appropriation bill.

Mr. COCKE moved to strike out the provision "for additional compensation to the clerks in the office of the Superintendent of Indian Trade, as allowed by the act of the 20th of April, 1818." The motion was supported by the mover, and Mr. WILLIAMS, of North Carolina, and carried by a large majority.

Mr. COCKE moved to strike out the clause "for the payment of balances due to officers of the old internal revenue and direct tax;" but, after some explanation by Mr. SMITH, of Maryland, the motion was withdrawn.

The clause providing for the salaries of foreign Ministers being under consideration—

Mr. MALLARY suggested that he was not satisfied that it was necessary to send a Minister to Lisbon, and that a Chargé des Affaires would perhaps be sufficient. He therefore called for information on the subject from the chairman of the Committee of Ways and Means.

Mr. SMITH, of Maryland, in reply to the inquiries of Mr. MALLARY, reviewed at considerable length the political and commercial relations which, for a long period, have subsisted between this country and Portugal. We had long exported, he said, vast quantities of flour to that country; but at length the Government laid a duty of \$2 per barrel on all the flour imported into that kingdom, from this country, and gave privileges and held out inducements to the nobility to erect mills, which was done, and they were in a great measure supplied with wheat from Poland. Our people exported no wheat. They manufactured it themselves; but the duty, which was intended as a prohibition, was severely felt, and our Government sent a Minister to that Court to obtain a repeal of the duty. Ministers, however, are not always the best negotiators in mercantile concerns; and the object was not effected. But it was afterwards accomplished by a Consul General, who was thoroughly acquainted with commercial subjects, and the duty was taken off. Subsequently, the Court was removed to Brazil, from which it has recently returned to Europe. But the duty of \$2 per barrel has been renewed for the purpose of encouraging agriculture, and of giving it a new direction, instead of cultivating almost exclusively the vine. The Government of that country has thought us to be hostile—particularly from the greater duties we imposed upon the wines of Madeira and Fayal, than upon the wines of other countries. Large quantities of corn are sent from this country to Madeira; and they are understood to be about petitioning the Cortes to impose restrictions upon the importation of our corn; and the consequence may be, that we may be wholly deprived of the benefits of that trade. All attempts to reduce our enormous duties upon these wines have hitherto been ineffectual, because they are drunk by the rich, without seeming to regard the importance of the trade. Mr. S. further observed that he thought it expedient not to withhold the

appropriation, inasmuch as the President had recommended the measure; and, should we refuse, the consequences and the responsibility of that refusal will rest upon us.

Mr. MALLARY remarked, that the object of sending Ministers abroad was for the purposes, either of policy or commerce. In relation to the policy, he thought a Minister was not necessary. The Government of Portugal was not formidable, either at sea or on land. With respect to commerce it was evident, from the statement of the gentleman from Maryland, (Mr. SMITH,) that a commercial object, which a Minister could not effect, a Consul General was competent to accomplish. Mr. M. therefore thought a Chargé des Affaires was adequate to the object. There were twenty places in Europe where we send no Minister, of more commercial importance to this country than Lisbon. Mr. M. adverted to a statistic report of the Secretary of the Treasury, to show the superiority of the trade of other countries; and he particularly referred to Holland, Denmark, and Sweden. The latter nation was certainly at least equal in dignity, and superior in strength to Portugal, and was as well entitled to expect a Minister from us as the latter Government; and with respect to the Brazils, he believed they would emancipate themselves from the control of the parent country, whenever they thought proper to dissolve the connexion, and assume their independence. Mr. MALLARY concluded by moving to transpose the word Lisbon, so as to provide for a Chargé des Affaires in that country, instead of a Minister.

Mr. SMITH replied, by referring to the Message of the President of the United States at the opening of the session. He observed that Portugal had expressed a sincere desire to renew a friendly intercourse, and, he understood, had actually appointed a Minister to this country. The gentleman from Vermont (Mr. MALLARY) had said that the trade with Portugal was unimportant. He (Mr. S.) admitted it, and it was to restore it to importance that the mission was proposed. A Chargé des Affaires might be adequate if, as in the case of Sweden, a treaty was already subsisting; but we want a Minister to make a treaty, and a Chargé des Affaires may afterwards be sufficient.

The motion of Mr. MALLARY was further supported by Messrs. GILMER, HARDIN, and ROSS, and opposed by Messrs. WRIGHT, POINSETT, BALDWIN, WOOD, RHEA, ARCHER, FARRELLY, WOODSON, MERCER, and SMITH; when the question was taken, and the motion was negatived—ayes 34.

The question for expenses of carrying into effect the fifth, sixth, and seventh articles of the Treaty of Ghent, being under consideration—

Mr. COCKE observed, that he should be opposed to making any further appropriation for that object, until he was informed that those Commissioners had settled their accounts. They had heretofore been called on, but only one class of them, to his knowledge, had obeyed the call; and, among the charges it included, was to be found expenses incurred for fish-hooks, and fishing-nets, and bacon hams, and other like items, that did

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not seem to be a proper expenditure for the nation. The business had been already protracted eight years, almost as long as it took to destroy Troy; and if we go on, said he, appropriating from session to session, it will become a life estate to those concerned. He was averse to placing any more money in their hands, until they had accounted for what they had already received; and he moved to fill the blank with the sum of twelve thousand five hundred dollars.

Mr. F. JOHNSON adverted to the law of the last session that limits their allowance to a specific salary, in lieu of all other expenses.

Mr. BALDWIN believed there had been too lavish an expenditure of the public money; nor would he now vote for the appropriation, did he not fear the public service might suffer from the delay a refusal of it might occasion. It was a business connected with a foreign Power, and he wished the concern might be closed.

Mr. COCKE said we were told that the line could not be run in the Winter, because the climate is too cold; and in the Summer the Commissioners, he understood, were frolicking at Ballston Springs. He thought it was high time that Congress should interpose, and prevent this waste of the public treasure.

Mr. WILLIAMSON remarked, that the people of Maine were as much dissatisfied with the progress of the Commissioners as the people of any other part of the United States could be. He observed that, in reply to a call which had been made on the Executive at this session, on the subject of the 5th article, we had been assured that it would be concluded in the course of the ensuing Spring. He thought, therefore, the most expedient course would be to make the appropriation called for, so as to have the business concluded without further delay.

The question was then taken on filling the blank with the sum of \$25,000, and negatived; and the blank was filled with the sum of \$12,500.

The clause to provide "for the salaries of the Commissioners, Secretary, Clerk, and Messenger, together with the contingent expenses of the two Commissioners under the treaty with Spain," being under consideration—

Mr. COCKE animadverted upon the unnecessary and extravagant expenditure which had been incurred under the direction, as he understood, of the Secretary of the Spanish Commission, but he made no motion.

Mr. MILNOR remarked that information had been lately received that the Cortes of Spain had recognised the independence of South America; and if so, it was not probable they would be anxious to encounter the expense of running the line between this country and Mexico. Under this view, he moved to reduce the appropriation to \$15,000 instead of the sum of \$30,000, as recommended by the Committee of Ways and Means.

The question was taken on the sum of \$30,000, and negatived.

Mr. WALWORTH proposed to modify the clause, so as to confine the appropriation exclusively to

the commission to settle claims under the treaty, instead of the two commissions.

Mr. J. S. JOHNSTON, of Louisiana, said, as far as this appropriation is intended to cover the expense of running the boundary line established by the treaty with Spain, between the United States and Mexico, it was unnecessary. This House, he said, had determined to recognise the independence of Mexico; it would involve an absurdity now to recognise the right of Spain to fix with us the limits of a country, over which all authority has ceased; to define the limits after she has ceased to exercise any other sovereignty there. This is a right utterly incompatible with the public rights of the independent Government that now reigns over it. If a commissioner was appointed by Spain, as it is stated, he was named before the new state of things existed, and his powers would be recalled by Spain herself, as soon as it was known that she had no longer any interest in the question. The gentleman from Pennsylvania (Mr. BUCHANAN) had stated that the treaty was binding on Mexico, as Spain exercised sovereignty over it at the date of the treaty. That may be true, (said Mr. J.,) and Mexico will carry it into effect in good faith. there is no danger of her refusal to accept a treaty, which relinquishes our right to her territory, and gives her six hundred miles of seaboard. She has very little objection to Spain giving us Florida, and leaving her the Province of Texas. We claimed their country to the Rio Grande—by the treaty we have surrendered it. They do not claim our territory—we have relinquished our right to Texas. We have made the sacrifice, not they; all the country west of the Sabine is now a part of Mexico. Besides, said he, can we send agents to run and mark her limits, against her consent, without insulting her sovereignty, and violating her territory? What! send armed troops, (as was intimated,) into a foreign country, in defiance of the law of nations. This must now be a subject of arrangement with the Government of Mexico. It is better to leave it open; we have now nothing to lose; we have already lost all in that quarter.

A discussion of some length ensued, in which Messrs. COCKE, MILNOR, WALWORTH, BUCHANAN, SMITH, of Maryland, WARFIELD, COOK, RHEA, and EDWARDS, of Connecticut, took part; when the question was taken, and the modification adopted—ayes 78.

The question was then put on filling the blank with the sum of fifteen thousand dollars, and carried; when, the Committee rose, reported progress, and obtained leave to sit again.

SATURDAY, April 6.

Mr. HENDRICKS, from the Committee on the Public Lands, to which was referred, on the 31st January last, the memorial of the General Assembly of the State of Indiana, reported a bill authorizing the location of school lands in that State; which was read twice, and committed to a Committee of the Whole.

Mr. COCKE submitted for consideration the following resolution, viz:

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Resolved, That the Secretary of State be directed to furnish this House with a statement of the amount of money paid as salaries, outfits, and contingent expenses, to foreign Ministers, since the year 1800, and the amount paid on each; also, the Courts at which they were employed, and the time they were, respectively, engaged in the discharge of their duties as Ministers from the United States.

The resolution was ordered to lie on the table one day.

On motion of Mr. HARDIN, the House went into consideration of a bill for the relief of John Thomas; and, after some remarks on the same, by Messrs. HARDIN, SMITH of Maryland, COCKE, EDWARDS of North Carolina, MCCOY, WRIGHT, and MONTGOMERY, the bill was ordered to be engrossed for a third reading this day; which was subsequently done and the bill passed.

The SPEAKER laid before the House a report from the Secretary of State, in obedience to the resolution of the 14th ultimo, instructing him to report what evidences of claim, recorded in his department, in pursuance of the act of the 31st March, 1814, providing for the indemnification of certain claimants of public lands in the Mississippi Territory, remain in that office, after having been rejected by the Commissioners appointed under that act; whether he has refused to deliver up such evidences to the claimants, together with the reasons of such refusal, specifying the names of such claimants; which report was read and ordered to lie on the table.

Bills from the Senate of the following titles, to wit: 1. An act for the relief and sureties of Joseph Pettipool; and 2. An act for the relief of Joseph C. Boyd; were severally read the first and second time, and referred, the *first* to the Committee on the Judiciary, and the *second* to the Committee on Military Affairs.

APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of yesterday—the General Appropriation bill.

The clause to provide for repairing the Cumberland road being under consideration—

Mr. CONDICT moved to strike out the clause. He said the United States had already expended enormous sums in the construction of this road, and he could not consent to impose upon his constituents any further expense in repairing it.

Mr. BRECKENRIDGE had not expected the opposition which the gentleman from New Jersey (Mr. CONDICT) had made to the bill, and the manner was as unexpected as the matter. He has said that he is unwilling to tax his constituents for this object. Does not that gentleman recollect that the people of the West have been from time to time heavily taxed, to build fortifications on the seaboard, and support navies, in which they have no special interest? What would that gentleman say, if we should avow that we would pay no more for those objects, and urge for reason that we are far enough out of the way of an enemy, and therefore are not disposed to contribute to the common defence? This was a magnificent plan

of connecting the Eastern with the Western States. It was creditable to the munificence and policy of the Government; and he would not ask whether it was expedient to suffer this valuable road to go to decay and ruin, rather than appropriate this trifling sum to an object so important. It was the common property of the nation, and it could not be conformable to the interests of the country to break the chain that binds the Eastern and Western States together.

Mr. FARRELLY regretted that the gentleman last up should have introduced local considerations into this discussion. He did not understand in what way this appropriation found its way into the bill. He objected to the manner in which it had been brought forward, and thought it should be done by way of bill, as was done in the case of payment for horses destroyed in the Seminole campaign. Nor did he see how the repair of this road could come within the Constitutional provision for the support of the Government. Mr. F. was willing to go as far on this subject as the compact required. The act of Congress, on this subject, provided for the construction, but not for the repair, of the road. If this appropriation was made, it would be followed by similar calls from year to year to keep it in repair. The gentleman from Kentucky (Mr. BRECKENRIDGE) had alluded to the expenditures for fortifications for the protection of the seaboard, which he contends are made for the exclusive benefit of those who live upon it. But he should remember that, in these fortifications, New Orleans had not been overlooked, which was done almost entirely for the benefit of the people of the West. As much attention has been paid to the fortification of that place as to those of New York, and he thought no fair argument could be adduced from that source. It had been said, indeed, that the sum asked for was a trifle. He admitted it; and if this was to be the end of it, it would perhaps be worth the time to be occupied in the contest. But he regarded this as only an entering wedge for future appropriations for the same purpose. The State of Pennsylvania has a road nearly parallel with this, from Harrisburg to Pittsburg, which is materially affected by this. Mr. F. was opposed to this appropriation also, on the ground that the expenditure of the moneys heretofore granted for this road had been wasteful and corrupt; and there was no guaranty that the sum which is now asked for would not be applied in a similar manner. Mr. F. did not wish to have this road go to destruction; but he thought if those who live on its borders would not support and repair it, it should revert to the States through which it passes. And he could not think that, for the sum of \$9,000, it was expedient to draw into discussion a Constitutional question of doubtful construction. After so large a sum had been expended, so far beyond the amount that was originally contemplated, he thought it was time to put an end to these appropriations.

Mr. SMITH, of Maryland, explained the manner in which this provision had been introduced into the appropriation bill, which was in consequence of a resolution of the House directing the Com-

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mittee of Ways and Means to inquire into the expediency of applying the unexpended balance of former appropriations for this purpose. That committee had obeyed the direction of the House, and they thought themselves justified in that course when they knew that \$1,000,000 had been expended by the United States in constructing the Cumberland road, and that it was now in a state of dilapidation. All the items of that amount had been made, from time to time, in the appropriation bills. The committee thought that sum would be well applied in repairing and protecting what it had cost so large a sum to construct. The superintendent had been consulted, and it appeared, from his statements, that the road, owing to the torrents, &c., in that mountainous country, will soon be impassable, unless the necessary repairs are made. The question, therefore, is, whether you will throw away what you have already done, rather than be at a little expense to sustain it? It had been said by the gentleman from Pennsylvania, (Mr. FARRELY,) that those who live upon it ought to repair it. But they have little interest in it. It is those who pass a great distance on the road that have the greatest interest in maintaining it. The construction of this road had done great honor to the nation, and he hoped it would not now be abandoned.

Mr. CAMPBELL, of Ohio, thought the same reasons that had induced the Government to build the road, would now influence them to preserve it. He had recently travelled it, and he found that the first part made wanted but little repair. That portion of it which was more recently constructed naturally required attention. The hills slide down, and the road is filled up, so that repairs are necessary. Mr. C. contended that the road was valuable to the United States, inasmuch as it rendered the public lands more accessible; and the people of the West had a right to expect this small appropriation for such an object. If a large appropriation was asked for, it would be perhaps expedient to pause. But the small sum of \$9,000 is all that is now required, and probably not even so large a sum as that will be necessary in future years, after the road shall have been thoroughly completed.

Mr. MALLARY was also opposed to the motion to strike out this clause of the section. The facts, he observed, were familiar to the House. The Government had expended \$1,800,000 on this road, and the policy of that expenditure had been repeatedly confirmed. It was now out of repair, and there were no means provided to maintain it. The first question, then, was, whether it was an object of sufficient consideration to authorize this appropriation? It was admitted to be the great chain to bind the East and West together, and for the accomplishment of that object much depended on the facility of communication. The House had been called on in this very bill to appropriate the sum of \$6,000 to pay John Trumbull for a national painting. They had done it. And was it not an object at least as national and important to preserve the great avenue to the West? We annually appropriate thousands, said Mr. M., for

the completion of this stupendous pile, the Capitol. And is not the Cumberland road as valuable a monument of national policy and munificence? When we appropriate so much to construct the road, he thought it worth while to contribute a pittance to save it. The people in that region, Mr. M. contended, had calculated, and prudently calculated, that the Government would not be at so much expense to construct the road, and then abandon it. He thought it was now ungenerous, if not unjust, to disappoint their expectations. The road from Philadelphia to Pittsburg was a great thoroughfare for the State of Pennsylvania; and it was not surprising, therefore, that the people of that State should not view the road with an eye of complacency. It was correct. It was natural for them to regard primarily their own interests. But the nation had decided in favor of the Cumberland road, and he thought it was expedient that Congress should not now depart from that decision.

Mr. FARRELY replied, and contended that the road was not in itself of so great importance, nor of such utility to the West as had been represented. He also stated that he had no confidence in the superintendence of the road; but, if the sum now asked for should be granted, it would probably be squandered as the former appropriations had been, and that it was inadequate to the accomplishment of the object in view, of effectually repairing a road 120 miles long. He further contended that this road was not national in its character more than any other road that was used by the public.

Mr. STEWART rose to reply to the gentleman last up, and to disclose some facts that were within his personal knowledge and observation. This road, he observed, was completed the last Summer. Every Congress, for the last ten or twelve years, influenced by a liberal and enlightened policy, had appropriated money for its construction. It was now asked, merely to apply to the reparation of the road an unexpended balance which had previously been appropriated for its completion, and a trifling sum to erect a bridge. It was not expected, with this sum, to make durable repairs of stone, but to remove obstructions, and put it in passable repair, until Congress should make some permanent provision on the subject. In some places the hills had slipped and filled the road; in others, the road has given way and precipitated so as to become almost impassable. The consequence has been, that the public travel and the public mail have been seriously obstructed. It had been said by his colleague, (Mr. FARRELY,) that the people living on the road should repair it. But it would be recollected that this road was made over a mountainous, and, to a considerable extent, an uninhabited country. A considerable part of it passes through Pennsylvania, which, as a State, is known to be hostile to it. The gentleman (Mr. F.) has stated that it is destructive to Pennsylvania; she has \$600,000 of stock in her own road, running from Philadelphia to Pittsburg; yet, he says that, if the road could not support itself, it ought to be given back to the State of Pennsylvania; this, by the gentleman's showing,

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would be to give the lamb to the keeping of the wolf. Such a course could not be required nor justified. This was a national road. It was built for a national purpose, and in a spirit of national munificence. And the important question before us now is, whether the whole object for which the expense was incurred shall be lost, for want of a trifle to repair and preserve it. We have been told, however, said Mr. S., that the money heretofore appropriated has been improperly expended. For the sake of argument, be it so; and what then? Is that a reason for abandoning the road? Large sums, also, have been appropriated for the erection of the spacious building in which we sit. But shall we stop the work because it may be suggested that some of the agents employed had been unfaithful to their trust. Should we relinquish the completion of this stupendous fabric, and leave it roofless, merely because there may have been extravagance and want of economy in the application of the public moneys? But the gentleman (Mr. FARRELLY) says, that this road is not important.

On this subject, he (Mr. S.) would advert to some facts that would show the incorrectness of the remark. On this road, most of the goods with which the Western States are supplied from those on the Atlantic, are carried; and on this road, the produce of the West is transported to the East. In a few of the western counties of Pennsylvania, there had been manufactured, in a single year, 371,000 barrels of flour, and 29,000 barrels of whiskey, which cost, before this road was constructed, at \$5 per barrel to transport to Baltimore or this city, now carried for \$2 50; and while we appropriate millions for the benefit of the merchant who exports it, by supporting navies, lighthouses, foreign agents, and ministers, will you do nothing to aid the farmer to carry his produce to your shores? We can no longer compete with our more western neighbors in the market of New Orleans. We are compelled to turn to the East. In Pittsburg, there has been paid in a single year two millions of dollars for transportation; but the carriage that then cost from eight to ten dollars per cwt. from Baltimore to Wheeling, is now reduced to two dollars and fifty cents. At least two-thirds is taken off. And who paid this enormous tax—for a tax it might well be called? It was the consumer. The merchant did not pay it. He added it to the price of his goods, and the people of the West were compelled to pay it, as much as the duties by which the national Treasury is enriched. This road was also important, Mr. S. contended, to facilitate the intercourse between the Eastern and Western States. It was an important feature in the national policy to smooth and soften the rugged points of difference between the different sections of the country, and to create a mutual dependence of each upon the other. His colleague (Mr. FARRELLY) had observed that other sections of the country had not been provided for. To this a reply was at hand. This was a national object, but the Pennsylvania road was a State object. The New York canal partook of both, for, though

it was entirely within the State, yet other States also participated in the benefits it was calculated to produce. This road could never have been built by a State. State funds were not adequate to such an object. There was, therefore, a strong and a fair claim upon the liberality of the people of the East—and this claim was fortified by the liberal appropriations which the House had made by this very bill in their favor. Almost an hundred thousand dollars had been already voted, and he expected an hundred thousand dollars more would be voted yesterday for the erection and maintenance of lighthouses and beacons, and buoys. All this was right and proper. He (Mr. S.) had voted for it, for it was necessary for the protection of those who coast along your shores. But this is bottomed on the same principle that we ask for this. The one is to travel in ships and boats, and the other in wagons. The surface over which they pass cannot vary the principle of affording them facility, safety, or aid. The element of earth is as much privileged for protection as the element of water. But this is not all. Not only lighthouses are erected, but causeways to reach them—and what are these but roads? And if so much can be done for the merchants, shall nothing be done for the farmers? And but yesterday we voted to send a Minister to Lisbon, at an expense of \$28,000. Of what use were these expenses to the people of the West? But they will contribute to pay the expense, and pay it cheerfully, because it is deemed necessary for the welfare of a part of the political family with which they are connected. Large sums, upwards of \$200,000 have also been appropriated to defray the expense of running a boundary line—not much longer than this road, and all will be contentedly borne by the Western people if they are permitted to participate in the national bounty. It has been said that money has been squandered upon this road. He (Mr. S.) would not again advert to this objection but to correct an impression that might have been received by this House. The western part of the road has been made under the direction of Messrs. Thompson and Williams, about thirty-six miles, and had cost upwards of \$16,000 per mile; but with respect to the eastern part of it, which had been built under the superintendence of Mr. Shriver, it was but just to say that he had performed his trust with great economy, at an expense of less than \$9,000, and a part for \$6,400, and with a fidelity and zeal that entitled him to the warmest commendations. It was due to him, therefore, to rescue him from imputations that were calculated, though not intended, to mislead the House. Mr. S. said the Constitutional right to make this appropriation had been called in question. On this point he made a number of remarks. He said the Constitution had vested in Congress the right "to establish post roads." On this road your mail now runs daily, and have you no right to repair and protect it? Have you no right to remove obstructions which the Postmaster General officially tells us has rendered it impassable? The Constitution has also given to Congress the pow-

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er to regulate commerce "between the States," as well as with foreign nations; and does not this road promote a very extensive and highly important commerce between the Atlantic States and the Western world? But this was not all: Mr. S. said the Constitution further gave the general power "to provide for the common defence and general welfare;" good roads were often more important as a means of defence than forts and fortifications. In a country like this, supporting a small Peace Establishment, good roads, by which the military means and physical forces were rapidly concentrated at the point of attack were immensely important. It had cost during the late war \$1,000 each, to transport a number of guns to the frontier, and \$90 per barrel had been paid for flour. And is not the "general welfare" promoted by this road, connecting and uniting the East and West by the ties of interest and intercourse, by which the immense mountains which have been pointed at as the line of division are removed? Mr. S. also adverted to the compact with Ohio, by which the Government agreed to make the road, in consideration of the exemption of the public land from taxation—it added to the value of the public lands by facilitating emigration and intercourse. The Western lands had put into the public Treasury more than thirty millions of dollars, and would yield as much more; and will you return no part to those who have paid it, but expend the whole for the benefit of the Atlantic coast and foreign commerce, which had cost this nation, in support of navies, lights, forts, &c., more than one hundred millions of dollars? Mr. S. then appealed to the liberality of the East to grant this pittance to their Western brethren; to the West he appealed to save their people from taxation, by reducing the cost of their goods, &c.; and his colleagues he hoped would yield their State prejudices to the high considerations of national policy, which should alone influence upon this floor. This road, he repeated, had been completed, at an expense of near two millions; it is now in a state of rapid dilapidation; and will you suffer the money and the road to be lost to the nation? He hoped a policy so inconsistent with the liberal and enlightened views of those who had commenced and finished this great work would not be adopted.

Mr. BALDWIN remarked that, when it was stated that two counties had produced 371,000 barrels of flour and 28,000 barrels of whiskey in a year for market, he thought it was too much to say that they were so poor that they could not repair the slip of a hill that had fallen into the road. When a particular object was to be carried, it was not uncommon to excite a clamor, in order that the real question might be lost sight of. The cry of mad dog was raised, the better to elude inquiry. The gentlemen in favor of the appropriation had talked much of this as a national road and a national object, and of the illiberal, local views of those who oppose it. But gentleman should recollect that there is a wide difference between the victims and the favorites of the Government. This road had gone far to desolate ninety miles of the

mountainous part of Pennsylvania. Was it then to be expected that it could be viewed by that State with indifference? Even the worm that is trod on has the right to groan. When the last appropriation was made for the Cumberland road, a pledge was given that no more should be asked for. But now it is openly avowed by the gentleman from Ohio, (Mr. CAMPBELL,) that this is to be followed by future appropriations, and to be sustained by the nation as a perpetual charity. And why should this be done? If it is so valuable, why can it not support itself? Where the Cumberland road passes over the mountains, the country is not more barren than the corresponding county where the Pennsylvania road crosses them. But we are told that this is a connecting chain that binds together the East and the West. It is a singular chain, indeed, that is broken in the middle. What is the situation of the road between Hagerstown and Boonsborough? Little better than a mud hole or a swamp. This is a part of the chain. And where are the chains to connect the other parts of the country? By what national road are the North and the South connected? What national road runs to the East? Is this the only national object which the Government is authorized to foster? The House are now to decide an important question—Whether a part of the country that lives upon and grows rich by this road, shall be exempted from the expense of keeping it in repair? His colleague, (Mr. STEWART,) had stated the great reduction in the price of transportation. But this took place before the Cumberland road was made, and was owing to other causes. Mr. B. had other objections to this appropriation. Appropriation bills, the House had been told by the chairman of the Committee of Ways and Means, were not proper bills for legislation. They were only to provide for the fulfilment of existing laws. But now the Committee of Ways and Means have converted themselves into a Committee on Roads and Canals. An appropriation bill should not give a preference of one over another; and if the Committee on Manufactures had introduced a bill to establish a road leading into Pittsburg, it was easy to divine that something would be heard of it from the chairman of the Committee of Ways and Means. But when a road is to be made or repaired from Cumberland to Wheeling, the national funds cannot be withheld. The effect of this road was, Mr. B. observed, to destroy the stock in the other roads in Pennsylvania; and how would gentlemen feel if the whole weight of the National Treasury was brought to bear on their own section of the country? Mr. B. was sensible it was difficult to resist this measure—and for an obvious reason—it affects injuriously only one State in the Union; but that State, if too feeble to arrest the measure, would at least be allowed to protest against the application of the public money for a private and local object, so deeply injurious to its own interest.

The motion to strike out was further supported by Mr. WOODCOCK, of New York, and opposed by Mr. WRIGHT, and Mr. WARFIELD, when the question was taken thereon, and carried—ayes 70.

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Mr. CONDUCT then moved to strike out the clause providing for the erection of a wooden bridge over the Monongahela river, where the Cumberland road crosses the same at Brownsville. The motion was supported by Mr. MILNOR, and opposed by Mr. STEWART and Mr. F. JONES, when the question was taken thereon and carried—ayes 80, noes 32.

The bill having then been gone through with, Mr. BALDWIN proposed to amend the section, by adding thereto a clause, the purport of which was to have the year commence and end in the month of April annually instead of January, (so far as regards salaries, but not contingencies,) for the purpose of avoiding inconveniences that were now often and severely felt. The question was taken on the motion and negative—55 to 53.

Mr. TRACY proposed an amendment of the bill in relation to the compensation to the messengers. When he first agitated that subject, his object was not to *reduce*, but to *define* their compensation.

The CHAIRMAN decided that the blank having been filled by the committee, it was not competent to propose a different sum, unless that vote should be previously reconsidered, and that it was not competent to move a reconsideration of that vote, because more than one day had elapsed since the vote was taken. The decision was acquiesced in.

Mr. WILLIAMS, of North Carolina then moved an amendment, the purport of which was to exclude and prohibit all allowance from the contingent expenses of the War Department being made to the Surgeon General for quarters and fuel.

This motion was supported by the mover and Mr. COCKE, and opposed by Messrs. FULLER, DWIGHT, McDUFFIE, WALWORTH, and SMITH, of Maryland, but before any decision was had definitely thereon the Committee rose and reported progress, and obtained leave to sit again.

MONDAY, April 8.

Mr. BURTON submitted to the House a printed copy of an act of the General Assembly of the State of North Carolina, entitled "An act to incorporate a company, entitled 'The Roanoke Inlet Company,' and for other purposes."—Referred to the Committee on Commerce.

Mr. STEVENSON presented a petition of sundry millers, and owners of mills, in the county of Loudon, and State of Virginia, praying that certain regulations, therein specified, may be adopted, respecting the inspection of flour in the town of Alexandria, in the District of Columbia.

Mr. STEVENSON also presented a memorial of sundry freeholders and other inhabitants of Alexandria, in the District of Columbia, praying that the code of jurisprudence, framed by William Cranch, Esq., Chief Judge of the Circuit Court of the United States, in and for said District, may be considered and adopted.—Referred to the Committee for the District of Columbia.

Mr. NELSON, of Massachusetts, from the Committee on Expenditures on the Public Buildings, made a report in relation to advances made by, and to a balance due from, the late Commissioner

of the Public Buildings; which was read, and ordered to lie on the table.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill to authorize the issuing of letters patent to Richard Holden; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the same committee, also reported a bill to authorize the issuing of letters patent to Joshua Garsed; which was read twice, and committed to a Committee of the Whole.

Mr. DENISON, from the Committee on Expenditures in the Post Office, reported a bill further regulating the compensation of postmasters, and for other purposes; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making further appropriations for the military service of the United States for the year 1822, and for other purposes; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. RUSSELL, the Committee of the whole House to which is committed the bill supplementary to, and to amend an act, entitled "An act to regulate the collection of duties on imports and tonnage, passed the 2d of March, 1799, and to repeal an act supplementary thereto," were discharged from the consideration thereof; and the bill was committed to the Committee of the whole House on the state of the Union.

Mr. TAYLOR submitted the following resolution:

Resolved, That a committee be appointed, jointly with such committee as may be appointed by the Senate, to inquire and report what business now depending before the respective Houses, ought to be acted upon during the present session.

Mr. WALKER moved to amend the resolution, by making the committee consist of one member from each State, which was negative; and, after a few remarks by Messrs. ROSS and CANNON, the resolution, on motion of Mr. TAYLOR, was ordered to be laid on the table.

Mr. PATTERSON, of New York, submitted the following resolution, viz:

Resolved, That the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Postmaster General, be required to report to this House, on the first day of the next session, the number of superintendents, assistants, deputies, comptrollers, auditors, clerks, and messengers, retained in their respective departments; and whether any of them, and if any, how many of them, are unnecessary, inefficient, superannuated, or engaged in other pursuits or professions, in no wise relating to the public service; and, also, whether they cannot adopt a more efficient, as well as a more economical organization of their respective departments.

The resolution was ordered to lie on the table one day.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on Military Affairs were instructed to inquire into the expediency of prohibiting, by law, any allowance for quarters and fuel to the Surgeon General, or other staff officers of the army,

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who are paid salaries, or a stated sum of money per annum, for their services.

The resolution submitted on Saturday, by Mr. COCKE, calling for information relative to the expenses incurred by missions to foreign Courts, was taken into consideration, and adopted.

The House took up, and proceeded to consider the bill to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan: Whereupon it was ordered, that the said bill be committed to the Committee of the whole House, to which is committed the bill for the relief of Reuben Hickman and Fielding Hickman.

Mr. HUBBARD asked to be permitted to record his vote, at this time, on the question taken on Thursday, the 28th ultimo, on the question to concur in the first resolution reported from the Committee of the Whole on the state of the Union, and subjoined to the report of the Committee on Foreign Affairs, recommending a recognition of the independence of the late Spanish American provinces; alleging that indisposition prevented his attendance on that day and until the present; and the House having, by unanimous consent, granted the permission asked for, his name was called by the Clerk, when he answered in the affirmative.

TERRITORY OF FLORIDA.

A Message from the PRESIDENT OF THE UNITED STATES, received on Saturday last, was read, and is as follows:

To the House of Representatives of the United States:

I communicate herewith to the House a report from the Secretary of War, containing the information requested by their resolution of the 5th ultimo.

It may be proper further to add, that the secretaries of both the Territories have occasionally required and received the aid of the military force of the United States, stationed within them, respectively, to carry into effect the acts of their authority.

The government of East and West Florida was, under the Spanish dominion, almost exclusively military; the Governors of both were military officers, and united in their persons the chief authority, both civil and military.

The principle upon which the act of Congress, of the last session, providing for the temporary government of the newly ceded provinces, was carried into execution, has been communicated to Congress in my Message at the opening of the session. It was to leave the authorities of the country, as they were found existing at the time of the cession, to be exercised until the meeting of Congress, when it was known that the introduction of a system, more congenial to our own institutions, would be one of the earliest and most important subjects of their deliberations. From this, among other obvious considerations, military officers were appointed to take possession of both provinces. But, as the military command of General Jackson was to cease on the 1st of June, General Gaines, the officer next in command, then here, who was first designated to take possession of East Florida, received from me a verbal direction to give such effect to any requisition from the Governor for military aid, to enforce his authority, as the circumstances might require.

It was not foreseen that the command in both the provinces would, before further legislation by Congress on that subject, devolve upon the secretaries of the Territories, but, had it been foreseen, the same direction would have been given as applicable to them.

No authority has been given to either of the secretaries to issue commands to that portion of the Army which is in Florida; and whenever the aid of the military has been required by them, it has been by written requisitions to the officers commanding the troops, who have yielded compliance thereto, doubtless under the directions received from General Gaines, as understood by him to be authorized.

Shortly before the meeting of Congress a letter was received at the War Department from Colonel Brooke, the officer commanding at Pensacola, requesting instructions how far he was to consider these requisitions as authoritative; but the assurance that a new organization of the government was immediately to be authorized by Congress, was a motive for superseding any specific decision upon the inquiry.

JAMES MONROE.

WASHINGTON, April 5, 1822.

WAR DEPARTMENT, March 23, 1822.

SIR: The Secretary of War, to whom was referred the resolution of the House of Representatives, requesting the President of the United States to inform the House "whether that portion of the United States Army, now in Florida, is commanded by the officers of the said Army, or by the Secretary of the Territory; and if by the latter, by what authority is he invested with such command," has the honor to transmit a report of the Adjutant General, which furnishes all the information in this Department in relation to the subject. I have the honor to be, &c.

J. C. CALHOUN.

The PRESIDENT of the U. S.

ADJUTANT GENERAL'S OFFICE,

Washington, March 22, 1822.

SIR: In reply to your communication of the 21st instant, transmitting a resolution of the House of Representatives of the 5th, I have to report, that, from the returns in the Adjutant General's Office, it appears that the troops now in Florida—those at Pensacola and St. Mark's—were under the command of Colonel J. R. Fenwick, and those at St. Augustine and Amelia Island, under the command of Lieutenant Colonel Eustis.

It does not appear, from any returns or reports in this office, that the secretaries of Florida have exercised any command over the troops within that Territory. I have the honor to be, &c.

JAMES GADSDEN,

Colonel and Adjutant General.

The SECRETARY OF WAR.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, who were instructed "to inquire into the expediency of transferring the duties heretofore performed by the Commissioner of the Public Buildings to the principal Architect," made a report thereon, accompanied by a bill fixing the compensation of the said Commissioner; which bill was read twice, and committed to a Committee of the Whole. The report is as follows:

H. OF R.

Pay of the Army and Navy Officers.

APRIL, 1822.

The Committee on the Public Buildings, to whom was referred a resolution of the 2d of April instant, directing an inquiry to be made "into the expediency of transferring the duties heretofore performed by the Commissioner of the Public Buildings to the principal architect," report :

That, by an act of Congress, passed on the 16th day of July, 1790, the President of the United States was authorized to appoint, and keep in appointment so long as might be necessary, three commissioners, whose duty, among other things, it was made by the said act, (according to such plans as the President should approve,) to provide suitable buildings for the accommodation of Congress, and of the President, and for the public offices of the Government of the United States. The office of the commissioners, created by the abovementioned act, was abolished by an act of Congress passed on the first day of May, A. D. 1802; and the affairs of the city of Washington, which had been under the care and superintendence of the commissioners, were placed under the direction of a superintendent, appointed by and acting under the control of the President of the United States. The superintendent was invested with all the powers, and charged with the performance of all the duties of the commissioners, by or in virtue of any act of Congress, or any act of the General Assembly of Maryland, or any deed or deeds of trust from the original proprietors of the lots in the said city, or in any other manner whatever. The salary of the superintendent was fixed by the act of 3d March, 1803, at twelve hundred dollars per annum, besides contingent expenses.

By the act of April 29th, 1806, the office of superintendent was abolished, and the President of the United States, by and with the consent of the Senate, was required to appoint one commissioner, who shall hold no other office under the authority of the United States; who is allowed a salary of two thousand dollars, and who shall perform all the duties with which the three commissioners were charged, and the duties of the superintendent. It is the duty of the Commissioner of the Public Buildings to select and appoint the architect and all other agents engaged in the public buildings, to fix their compensation, to determine the number and description of workmen to be employed, and their pay, to provide and purchase materials, to inspect the plans and execution of the work, and to have the general regulation and superintendence of the whole. It is his duty to make all the disbursements of money, either on account of labor or materials, to procure regular vouchers for the same, and to account at the Treasury for all sums appropriated to objects within his department. It is also his duty, as superintendent of the city of Washington, to see that the plan and regulations are observed, to attend to the sale of public lots, to collect and account for the proceeds thereof, to make, under certain circumstances, streets through, and footways in front of, the public grounds, and to have the care and management of those grounds. It is also understood that the United States are parties to the several suits now depending to try the right to the property in the city of Washington, of a considerable amount, the care and management of which suits appertain to the Commissioner of the Public Buildings. It may not be thought irrelevant here to refer to a report made by the Commissioner of Public Buildings, to the House of Representatives, during the present session, in relation to the public lands in the city of Washington, by which

it appears, "that of the building lots there remain unsold about the number of 5,150, the reservations, containing together 541 acres, 1 rood and 29 perches, or 23,584,745 square feet, equal to 4,479½ standard lots; "that the average price of the public lots heretofore sold is \$180 per lot, and at this valuation the whole of the grounds belonging to the United States in the city of Washington amount to one million seven hundred and thirty-three thousand three hundred and ten dollars." There is no such officer created by law as an architect of the public buildings, but it is the duty of the Commissioner of Public Buildings to employ an architect, when necessary, as it is his duty likewise to employ all other necessary agents; and when the public buildings shall be completed, the services of an architect may be dispensed with. From the view which the committee have taken of the duties of the Commissioner of the Public Buildings, taking into consideration the quantity and value of the public property subject to his care and management, they cannot resist the impression that the office is a necessary one, that its duties are important, and that it is inexpedient to transfer them, as proposed by the resolution. The committee, however, being anxious to retrench the expenditure of the public money, where it may be done without sacrifice of the public interest, and believing that the duties of the Commissioner of the Public Buildings are less arduous than they formerly were, in consequence of the progress made towards the completion of the buildings, recommend a reduction of the salary of the Commissioner to the sum of fifteen hundred dollars per annum, and for that purpose have directed that a bill be reported.

PAY OF ARMY AND NAVY OFFICERS.

Mr. CONDUCT submitted the following resolutions:

Resolved, That the Committee on Military Affairs be instructed to inquire and to report to this House what amount of compensation is paid by the United States to an army officer of each grade, from the rank of major general down to the lowest commissioned officer, including the staff appointments; distinguishing the monthly or annual pay from the moneys paid for rations, forage, quarters, fuel, transportation, or perquisites of any other description, and the several sums allowed for each item.

Resolved, That the Committee on Naval Affairs be instructed to inquire and report what amount of compensation is paid to Naval officers, including the Marine Corps, from the highest to the lowest grade, inclusive; distinguishing the monthly or annual pay from all other payments or perquisites of any description, and the several sums allowed for each item.

Mr. COCKE was in favor of the object of the resolutions, but he believed them to be unnecessary, because the information they contained was already in the possession of the House.

Mr. EUSTIS also opposed the resolutions, as being unnecessary; and he stated that the Military Committee had called on one of the Departments, and found that it had been occupied twenty days in making out a reply to a call for information by a member of this House, which, with the printing, would cost the nation from five to seven thousand dollars. He believed this information was within the reach of every member, without again calling on the Department for it.

APRIL, 1822.

American Property Sequestrated in England.

H. OF R.

After a few further remarks by the mover, the resolutions, on motion of Mr. CONDUCT, were ordered to be laid on the table.

MONUMENT TO BARON DE KALB.

Mr. WRIGHT, pursuant to notice, asked leave to introduce a bill to erect a monument to the memory of the late Baron De Kalb. Mr. W. produced the proceedings of Congress of 1780, as follows:

Resolved, That a monument be erected to the memory of the late Major General Baron De Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

Sacred to the Memory of the Baron De Kalb,
Knight of the Royal Order of Military Merit,
Brigadier of the Armies of France,
and

Major General in the Service of the
United States of America.

Having served, with honor and reputation,
for three years,

He gave a last and glorious proof
of his attachment to the liberties
of mankind and the cause of America,
In the action near Camden, in the State of S. Carolina,
On the 16th April, 1780.

When, leading on the troops of
the Maryland and Delaware Lines
against superior numbers,
And animating them, by his example,
to deeds of valor,

He was pierced with many wounds,
and on the 19th following expired,
in the 48th year of his age.

The Congress of the United States of America,
In gratitude to his
zeal, services, and merit, have decreed
This Monument.

Having read this resolution, Mr. W. said he believed it to be his duty, as a Representative of the State of Maryland, to fulfil the engagement of those patriots of the Revolution who achieved our independence, in a case like this, where they intended to honor a hero of a foreign clime, who shed his blood for the liberties of America; especially as, in doing this, they perpetuate the services of the Maryland and Delaware lines, who distinguished themselves on that occasion. The small sum requisite to do this business, he was sure, would not influence any member of the House against carrying into effect the grateful intentions of those patriots who declared us independent.

[The House refused to consider Mr. W.'s motion—ayes 26.]

TIME OF ADJOURNMENT.

The House then took into consideration the resolution from the Senate, fixing the time for the adjournment of Congress.

The resolve was so amended, on motion, as to leave the time of the adjournment in blank.

Mr. EDWARDS, of North Carolina, moved to fill the blank with the 29th day of the present month; and he made a number of remarks to evince the expediency of the motion he had made.

Mr. SMITH, of Maryland, proposed the 13th of May; and he thought, from the great variety of

important objects before the House, it was impossible to conclude the public business at an earlier period. He was opposed to an earlier meeting at the next session; for experience had shown that one week towards the close of the session was more valuable for the doing of business than four at the commencement.

Mr. WALWORTH proposed the first Monday in May, as the day of adjournment.

Mr. SAWYER moved to lay the resolution on the table; which motion was negatived.

Mr. CONDUCT moved to postpone the further consideration of the resolution for ten days; which, after a few remarks by Mr. WRIGHT, was modified, at the suggestion of Mr. NEWTON, of Virginia, so as to move to postpone it to Monday next. When, the question being taken thereon, the motion was negatived—ayes 59, noes 86.

Mr. WOOD was in favor of the time named by Mr. SMITH, of Maryland. He thought the gentlemen who were disposed to retrench the public expenditures ought to be willing to stay here and examine the subject; and he believed that by a due and proper examination of the Army and Navy estimates a million of dollars might be saved.

Mr. BASSETT named the fourth Monday of April.

After further observations by Mr. BALDWIN, Mr. STEWART, and Mr. WRIGHT—

Mr. SAWYER named the 15th of May as the day of adjournment; which, being the remotest period, the question was first taken thereupon, and negatived.

The motion of Mr. SMITH was next in order; and the question being taken thereon, (viz : the 15th of May,) the same was negatived—ayes 70, noes 75.

Mr. WALWORTH'S proposition (the first Monday in May) being next before the House—

Mr. COLDEN moved to change the day of adjournment from Monday to Saturday; and, after a few remarks from Mr. CHAMBERS—

Mr. LITTLE moved to fill the blank with the words "on Wednesday, the 8th of May next."

Mr. WALKER proposed Saturday, the 11th of May next; which was negatived.

The question then occurred on Mr. LITTLE'S motion, (the 8th of May,) which was put, and carried—ayes 83, noes 76. And by unanimous consent the resolution was then read a third time, passed, and returned to the Senate.

AMERICAN PROPERTY SEQUESTERED IN ENGLAND.

Mr. RUSSELL made the following report, which was read, and committed to a Committee of the Whole to-morrow.

The Committee on Foreign Affairs, to whom has been referred the petition of Jacob Schieffelin and Henry H. Schieffelin, having duly considered the same, report: That a report was made to the House, by the Committee of Claims, at the first session of the sixteenth Congress, unfavorable to the prayer of the petitioners. To that report, and to the report of the Secretary of State, of the 6th of January, 1820, on which it was founded, and to the documents cited by the latter, your committee ask leave to refer.

H. OF R.

American Property sequestered in England.

APRIL, 1822.

The petitioners now, in substance, state that, finding by the report of the Secretary of State, above referred to, that they are "precluded from all retrospective claims on the British Government by the late treaty of peace, and that their claim has never been preferred, and thus being deprived of all hope of remuneration from that Government," they appeal to the justice of the Government of the United States, and ask for that relief which Congress, in its wisdom, may deem proper to grant.

Your committee are of opinion that the report of the Secretary of State does not apply to the case of the petitioners when it states that "it was distinctly understood [by the respective parties on signing the Treaty of Ghent] that no retrospect was to be taken on either side for losses occasioned by the hostilities incident to war." It is not necessary to infer, from the obvious import of the terms here used, that the report applies only to losses during the war, and occasioned by the hostilities incident to it. The documents now before the public furnish precise and conclusive evidence of the facts on which that report was founded.

In the projet of a treaty submitted on the 10th of November, 1814, by the American to the British Plenipotentiaries at Ghent, the thirteenth article proposed "that indemnity shall be made, by each of the contracting parties, to the subjects and citizens of the other party, for all losses and damages sustained subsequent to the commencement of the present war, by reason of seizure or condemnation of vessels or cargoes belonging to the subjects or citizens of the one party, which, in the ordinary course of commerce, happened to be in the ports of the other party; and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes, contrary to the known and established rules and usages of war between civilized nations." To this part of the article the British Plenipotentiaries would not assent, as may be seen in their note to the American Ministers of the 26th of November of the same year. The American Ministers, in reply to that note, on the 30th of the same month, felt themselves obliged to acquiesce in this decision of the other party, and to say that they "will decline insisting upon so much of the thirteenth article as relates to indemnity for losses and damages subsequent to the commencement of the present war."

After this dissent on the part of the British, and this acquiescence on the part of the American Plenipotentiaries, the report of the Secretary of State might well say that there was a mutual understanding, which would have rendered it obviously useless to urge, after the conclusion of the treaty, claims thus unequivocally excluded before. Still your committee do not consider that report as applicable to the claim of the petitioners; first, because that claim existed prior to the war; and secondly, if it had not so existed, it does not come within the terms or spirit of any of the cases thus excluded.

The property claimed by the petitioners was, according to their own showing, captured and condemned by the British in 1808; the sentence of condemnation reversed by the high court of admiralty in 1810; and the liquidation being delayed until the declaration of war by the United States in 1812, the property was then sequestered, and declared to be lawful prize to the King in 1813, "although taken prior to hostilities."

The claim, therefore, of the petitioners originated in 1808, long before the commencement of the war, and, remaining unliquidated and unpaid, had never ceased to exist, and thence cannot be considered as a claim for losses and damages sustained subsequent to the war. The war merely changed the professed intentions of the British Government, and substituted prompt confiscation for what strongly resembled it in effect, indefinitely delayed restitution, and thus consummated a loss which had long before been sustained.

If the loss of the petitioners, however, can be considered as sustained subsequent to the commencement of the war, still it cannot be brought within either of the two classes of cases described in the thirteenth article above cited, on which the report of the Secretary of State was obviously founded, and, of course, cannot be involved in the fate of those cases.

As the only reason assigned by the petitioners for bringing their claim again before Congress being the inference which they erroneously drew from that report, that this claim had been "precluded by the late treaty of peace, and never preferred," your committee believe that, in showing, as they have done, that this report does not apply to the case, they take from the petitioners the only reason which they have assigned for again presenting their claim to this House.

Your committee, however, entirely disposed to give ample proof of the spirit with which this investigation is pursued, do not confine themselves to this view of the subject. Should the petitioners be able hereafter to show, which it is believed they cannot, that their claim for indemnity is for a loss subsequent to the commencement of hostilities, and that it was fairly within the description of the cases which the American Ministers understood to be abandoned, still, as this abandonment was manifestly the result of imperious necessity, it could authorize no demand on this Government for compensation.

As your committee have considered the claim now under examination not to be for a loss subsequent to the commencement of hostilities, and, consequently, that it must be for a loss sustained prior to that epoch, they will now endeavor to show that the petitioners have no right to ask of this Government any compensation for a loss so sustained.

In the first clause of the projet of a treaty of the 10th of November, 1814, already cited, the American Ministers require "that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damages sustained by them during the late war between Great Britain and France, and prior to the commencement of the present war, by reason of irregular or illegal captures, seizures, or condemnations of vessels and other property, under color of authority, and contrary to the known and established rules of the law of nations."

This clause clearly embraces the case of the petitioners. It was, however, like the remainder of that article, pronounced to be "inadmissible" by the British commissioners; yet the American Plenipotentiaries did not abandon the claims which it embraced, but, in waiving them at that time, they explicitly state, in their note of the 30th November, already cited, that they do so with an understanding that "the rights of both Powers, on the subject of seamen, and the claims of the citizens and subjects of the two contracting parties to indemnities for losses and damages sustained prior to the commencement of the war, shall not be affected or impaired by the omission in the treaty of

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American Property sequestered in England.

H. OF R.

any specific provision with respect to these two subjects."

This declaration on the part of the American commissioners was considered by them to be formal; for, in referring to it in their despatch to the Secretary of State of the 25th of December, 1814, the very next day after the treaty was signed, they say, "In declining to insist on the articles respecting impressment and indemnities, we made a formal declaration that the rights of both parties on the subject of seamen, and the claims to indemnity for losses and damages sustained prior to the commencement of the war, should not be affected or impaired by the omission in the treaty of a specific provision on these two subjects."

To prove to the conviction of every unprejudiced mind that the American Ministers at Ghent did not cease to insist on the claims of our citizens on the British Government for indemnity for losses sustained either before the war or during its continuance, until the last hope of success was extinguished, your committee need only to cite a paragraph of the note of the British Ministers of the 26th of November, 1814, on this subject. That paragraph, equally applicable to losses sustained before or after the commencement of hostilities, says, "With respect to the thirteenth article, the indemnification proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American plenipotentiaries in requiring them is not anticipated by the undersigned; if, however, contrary to expectation, indemnifications of this kind should be required, all hope of bringing the negotiations to a favorable issue must prove abortive. The undersigned are instructed explicitly to declare that, as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people."

Had the American Ministers, after the receipt of this note, persisted in adhering to an article requiring indemnity for losses sustained either before or after the commencement of hostilities, it is manifest that they must have done so at the imminent hazard, nay, with the certainty, of protracting indefinitely the existing war.

No nation is obliged to make war, or to prolong it when it exists, for the advantage or accommodation of the few. The whole duty of a Government towards its citizens, in this respect, is to seek redress for their wrongs by such means only as shall be perfectly consistent with the welfare and interests of all: of these means the Government is the sole competent judge, and is not responsible for their failure in producing the desired effect to those for whose special benefit they may have been used. For the benefit of the present petitioners these means have been employed by the American Government to the last, and relinquished only when it became obviously necessary so to do, in order to avert the continuance of a destructive and devastating war with the foreign aggressor. Still, in submitting to this necessity, the American Commissioners did not consent to abandon the claim of the petitioners, and, far from signing a treaty with an understanding that this claim was so abandoned, they made a formal declaration that the silence of that treaty in respect to it should not affect or impair it.

Whatever might be the legal effect of such an *ex parte* declaration in preserving our rights, or the cor-

responding obligations of the party to whom it was addressed, still it was all that, under existing circumstances, could be done for the petitioners; and it ought, therefore, at least to satisfy them that the American Government has not, by neglecting its duties, become responsible to them for indemnity.

This *ex parte* declaration, reserving, perhaps, on the part of this Government, the right only of renewing hostilities for the attainment of the objects to which it related, whenever such a resort should be found to be expedient, ought to be considered as renouncing, or at least as indefinitely postponing, the right to attain those objects in the ordinary forms of negotiation or diplomatic intercourse. Your committee are, therefore, of opinion that it would afterwards have been useless, and still would be useless, and thence improper, for the American Government to resort to such means; and that the petitioners have, therefore, no just cause to complain if their claim has not been, or shall not be, so "preferred."

The property of the petitioners has never been taken by this Government for the use of the American public; but it has, to the injury of both, been taken and confiscated by a public enemy. For the petitioners, therefore, after all that has been done for them, to insinuate a claim on this Government for indemnity for such a loss, would seem to be adding injustice to ingratitude.

This claim of the petitioners, indeed, appears to be the more ungracious, as the British order for the final confiscation of their property was dated the 13th of December, 1813, and the Treaty of Ghent was not signed until the 24th of December, 1814; and, during the intervening period of more than a year, they never acquainted either the American Government or its Ministers with the existence of the fact, nor in any way qualified either to demand, specially, an indemnity which the peculiar circumstances of their case might have seemed to warrant. The petitioners, it is believed, cannot intend to ask their Government to indemnify them for any evil which may thus have resulted from their own negligence.

Your committee, aware of the extraordinary hardship of the case referred to them, have been thus particular in reporting on it that the petitioners themselves may be satisfied that, although the aggravated circumstances which attended their loss can form no rightful claim on this Government for indemnity, or even for interference, yet those circumstances have not been disregarded. It is believed, indeed, that the British Government, in availing itself of its own wrong in taking and detaining the property until it was liable, by the rights of war, to be confiscated, has committed a singular act of injustice.

The Government of the United States, however, is in no way responsible for that act; and, having done all, and omitted nothing, which it was its duty to do, in order to obtain justice for the petitioners, your committee are of opinion that, however it may accord with propriety for the petitioners themselves to ask, as a matter of grace, of a foreign Government, the revision of and unusual and severe exercise of an extreme right, yet it does not become this Government to advise or to aid in such a request.

Your committee, having thus fully considered the subject referred to them, submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petition.

H. OF R.

General Appropriation Bill.

APRIL, 1822.

APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole on the unfinished business of Saturday last, (the General Appropriation bill.)

The question occurred upon the amendment proposed on Saturday by Mr. WILLIAMS, of North Carolina, relative to the allowance for fuel and quarters to the Surgeon General. Mr. W. stated, that the subject, since that period, having taken a different direction, he would withdraw his motion.

Mr. J. S. JOHNSTON moved to insert an amendment, the purport of which was to make a specific appropriation for the compensation of the Registers of the Land Offices, and the Receivers of the Public Moneys, in lieu of retaining their salaries, &c., as is now practised. The motion was supported by the mover, and by Messrs. RANKIN and STERLING, of New York; and opposed by Mr. SMITH, of Maryland, Mr. SLOAN, and Mr. WOOD, when the motion was withdrawn by the mover.

Mr. COCKE submitted the following as a proviso to the bill:

"Provided, however, That no money appropriated by this act shall be paid to any person for his compensation, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable."

The question being taken on this proviso, it was carried without a division.

After a third section had been proposed and adopted,

Mr. COOK submitted the following amendment (in relation to the survey of lands made by General Rector, without authority, in the State of Illinois:)

"And to pay for such surveys of the public land made during the year 1821, as shall appear to the satisfaction of the Secretary of the Treasury to have been well executed, \$50,000."

The motion was opposed by Mr. COCKE, Mr. TOP, Mr. RANKIN, and Mr. VANCE, and supported by the mover, who contended that it was founded on the same basis, as the claim of John Thomas, which was advocated by the gentleman from Tennessee (Mr. COCKE) but a few days ago, and he hoped a more rigorous principle would not be introduced in this case than in others. The resolution was also supported, in a speech of considerable length, by Mr. SCOTT, of Missouri, when the question was taken, and the motion negatived by a large majority.

The Committee, on motion of Mr. SMITH, of Maryland, then rose and reported the bill as amended.

In the House, Mr. TRACY remarked that, when he had, in Committee, suggested the expediency of changing the compensation of the messengers, his object was rather that the amount allowed them should be fixed by law, than that it should be lessened. He was more anxious to correct the abuse than to save the money. The principle of allowing extra compensation from the contingent fund was a bad one, and ought to be corrected.

He was not prepared to say that the amount they had received was too large, and should be sorry, therefore, to have the House, without further knowledge, take from these poor men, by surprise, one-half of their means of support. He should regret to have it supposed that our plan for reform had resulted in such a pitiful saving. There were many more important objects of retrenchment in the bill than this. We had passed over, without observation, officers who received public money by thousands, to fasten on these defenceless messengers. He was ashamed to be fishing for sprats and minnows while the sharks and grampuses ran free. He moved, therefore, to strike out the sum reported, and to insert one thousand and fifty dollars, as the compensation for principal messenger and his assistant.

The question was further debated by Mr. COCKE, Mr. COLDEN, and Mr. FARRELLY, when the question was taken and decided in the affirmative—ayes 61, noes 42.

Mr. TRACY moved to insert the words "seven hundred" in lieu of four hundred and ten dollars, as the compensation for the messenger in the First Auditor's Office, which was agreed to, and it was decided by the House that the same rule of construction should apply to all the messengers, as the provisions for them respectively occur in the bill.

The question of allowance to the messenger in the office of the Register of the Treasury being under consideration—after a running debate, the blank was filled with the sum of eight hundred dollars.

Mr. CHAMBERS moved to reinstate the compensation for a clerk in the Office of the Surgeon General; and, after a few remarks by Mr. STERLING, of New York, against concurring with the Committee of the Whole, in striking out the provision for that clerk, the question was taken, and the House refused to concur therein.

The question of concurrence with the Committee of the Whole in refusing to make an appropriation to repair the Cumberland road being under consideration,

Mr. F. JONES opposed the concurrence in a speech of considerable length; but, before he had concluded, on motion of Mr. H. NELSON, the House adjourned.

TUESDAY, April 9.

Mr. SERGEANT, from the Committee on the Judiciary, reported a bill from the Senate for the relief of the legal representatives of Joseph Hodgson, deceased, and a bill for the relief of the sureties of Joseph Pettipool, severally, without amendment; which were respectively committed to a Committee of the Whole.

Mr. HENDRICKS, from the Committee on the Public Lands, reported a bill from the Senate, designating the boundaries of a land district, and for the establishment of a land office in the State of Indiana, without amendment; which was referred to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee

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of Ways and Means, reported a bill for the relief of Captain James Barron; which was twice read, and committed.

Mr. RANKIN, from the Committee on the Public Lands, reported a bill from the Senate, to perfect certain locations and sales of public lands in Missouri, without amendment; which, on motion of Mr. R., was ordered to be laid on the table.

Mr. COOK, from the Committee on the Public Lands, reported a bill from the Senate, to establish an additional land office in the State of Illinois, without amendment; which was committed to a Committee of the Whole.

The House took up, and proceeded to consider the resolution submitted by Mr. PATTERSON, of New York, yesterday: whereupon, it was ordered that the resolution lie upon the table.

On motion of Mr. BALDWIN, the Committee of Ways and Means were instructed to inquire into the expediency of making an appropriation for the payment of the salaries of public officers, from the first of January to the first of April next year, and of providing, by law, that appropriations hereafter shall be made for one year, from the first of April in each year.

Mr. SAWYER submitted the following resolution, which was read, and ordered to lie upon the table:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That, after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of November next.

Mr. KENT submitted the following resolution; which was read, and ordered to lie on the table one day:

Resolved, That the Secretary of the Treasury be directed to report to this House the amount of public lands in each State and Territory; the amount of public lands heretofore sold in each State and Territory; and to specify how much of the lands sold in each State and Territory have sold for the minimum price, and how much for a greater price, in separate columns, and the aggregate result.

A message from the Senate informed the House that the Senate have passed bills of the following titles: "An act to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes;" and "An act to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana, which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid;" in which bills they request the concurrence of this House.

A Message received from the PRESIDENT OF THE UNITED STATES, on yesterday, was taken up and read, as follows, viz:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, requesting the President of the United States to cause to be furnished to that House certain information relating to the amount of the public money paid to the Attorney General, over and above

his salary fixed by law, since the first of January, 1817, specifying the time when paid, and the fund out of which such payments have been made, I transmit a paper marked A, containing the information desired. I transmit, also, a paper marked B, containing a statement of sums paid to Attorneys General of the United States, prior to the first of January, 1817, and in the paper marked C a like statement of sums advanced to district attorneys for services not required of them by law. These latter documents being necessary to a full view of the subject, it is thought proper to comprise them in this communication.

By the act of the 24th of September, 1789, instituting the office of Attorney General, it was made his duty to prosecute and conduct all suits in the Supreme Court, in which the United States should be concerned, and to give his advice and opinion upon questions of law, when required by the President of the United States, or when requested by the head of any of the Departments, touching any matters that might concern their departments. It will be seen, therefore, by the statement communicated, that no money whatever has been paid to the Attorney General, for his services in that character, nor for any duty belonging to his office, beyond his salary as fixed by law.

It will also be shown, by the documents communicated, that the construction given of the laws imposing duties on the Attorney General and district attorneys, have been invariably the same since the institution of the Government. On the same authority it was thought that the compensation allowed to the present Attorney General, for certain services, considering their importance, and the time employed in rendering them, did not exceed, regarding precedents, what might fairly be claimed.

JAMES MONROE.

WASHINGTON, April 6, 1822.

The Message and documents were laid on the table.

PUBLIC MONEYS.

Mr. BASSETT submitted the following resolutions:

Resolved, That in all future transactions of the Government, either where services are to be rendered, or supplies furnished, no money shall be advanced by the Government, or payments made, but in exact proportion to work done, or services rendered, or supplies furnished, before such payment.

Resolved, That when any officer, or other agent of the Government, shall fail to settle his accounts within the period prescribed therefor, it shall be the duty of the Secretary, or the head of the Department in which it shall occur, to dismiss such officer immediately, and in those cases where the power to dismiss is not in the head of the Department, it is hereby made his duty to report such case to the President, whose duty it shall be to dismiss such officer or agent from the service of the Government.

Resolved, That the President may, for the payment of pensions, military pay, and supplies, order such advances to be made as the public service may imperiously require, and shall have like power to order such necessary advances as the public good may imperiously require in the remoter points of the United States, or without the United States, but no such advances shall be made on contracts hereafter to be made with the Government; all advances made under this authority shall be accounted for within the period prescribed

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and shall, on failure, be subject to the penalties prescribed in other cases.

Resolved, That all officers, agents, or contractors, of the Government shall, if within two hundred miles of the seat of Government, settle their accounts once in every quarter; if within four hundred miles, in four months; if within five hundred, five months; if within the United States, six months. And all such officers or agents of the Government, to whom it may be necessary to advance money without the United States, shall be held to make settlement in three months after their return to the United States.

Resolved, That the President and heads of Departments apply these principles, in an equitable manner, to all persons now indebted to the United States.

Mr. B. explained briefly his views in offering the resolutions, and concluded by moving that the same be laid on the table; which was agreed to.

APPROPRIATION BILL.

The House then agreed to resume the consideration of the bill making appropriations for the support of Government for the year 1822; and the immediate question was, upon a concurrence with the Committee of the Whole in striking out the appropriation for the repair of the Cumberland road.

Mr. F. JONES concluded his speech of yesterday, and called for the yeas and nays on the question; which were thereupon ordered.

Mr. BUCHANAN said, he should make no apology for rising to address the House upon the present occasion. The character of Pennsylvania, he said, had been attacked, and her views had been misrepresented, by honorable gentlemen upon this floor; and he should feel himself utterly unworthy of the trust reposed in him, as one of her representatives, if, after what had been said, he were not to stand forth in her defence.

As it often happened, said Mr. B., that men are most afflicted by imaginary diseases, so it occurs that they most dread imaginary dangers. This has been the case with the gentleman from Tennessee, (Mr. JONES.) He has been grappling with the State of Pennsylvania, as though she stood ready to hurl the mountain into the Cumberland road, described by the gentleman from Maryland, (Mr. BAYLY,) and he were the Atlas who could sustain it upon his shoulders, and thus make the attempt unavailing. This fancy of the gentleman has produced an excellent speech. Indeed, without much imagination and ardor of feeling, there can be but little eloquence. Let me, however, assure that gentleman and this House, that neither Pennsylvania nor her representatives dream of the destruction of the Cumberland road.

The gentleman from Tennessee, (Mr. JONES,) and the gentleman from Kentucky, (Mr. HARDIN,) have ingeniously attempted to connect the grant of this appropriation with the preservation or destruction of this road. They have asked us if we will now destroy that great national work—if we will close the avenues which keep the intercourse open between the East and the West. I answer we will not. We all admit that the road should be preserved. The question now to be determined by this House is not whether the road shall be

destroyed, but by whom shall it be repaired, whether by the United States or by the people who use, and for whose benefit it was constructed.

The National Government have made the road at an expense of \$1,000,000. Notwithstanding all that has been said by gentlemen about the existence of a compact for that purpose, it now appears that five-sixths of this enormous expenditure has been pure bounty. It has been stated, and not contradicted, that the two per cent. upon the whole amount of the sales of lands of Ohio, which was the sum pledged for the purpose of making a road, does not exceed \$300,000. The United States then, in the construction of the Cumberland road, have been actuated by the most liberal policy towards the people of the West.

What has been the principal argument urged by gentlemen, friendly to this appropriation, to induce us to keep the road in repair? In my opinion it is one of the most wonderful which has ever been presented to this House. Say they, because you have made the road, you should, therefore, be at the expense of supporting it. Is not this a conclusion directly the reverse of one which would naturally flow from the premises? If we have been so generous as to make a road for you, ought you not, at least, to keep it in repair? If tolls could not be collected upon it sufficient for its preservation, there would be some force in the argument. This, however, is not pretended. Indeed we should be almost induced to believe, from the representations of its friends, if we did not know to the contrary, that it was the only road which connects the West with the East.

In what estimation would an individual be held who had received as a free gift a valuable farm, if, when, in the lapse of time, it needed repairs, he should demand from his benefactor the sum which they might cost, and assign his generosity in conferring the original bounty, as a reason why he was bound to satisfy this new claim? The present is a case precisely parallel with the one now before the House, so far as it goes. The gentleman from Kentucky, (Mr. HARDIN,) and the gentleman from Tennessee, (Mr. JONES,) have gone still further, and have attributed, not only to my colleagues who have heretofore addressed you on this subject, but to the State of Pennsylvania generally, a selfish and illiberal policy, because they have resisted this unreasonable demand. With what justice the charge has been made remains for this House to determine.

Gentlemen have instituted comparisons between the amount of public money expended for the benefit of the people in the East and in the West. As a present consolation for the disparity in this respect, which the gentleman from Kentucky, (Mr. HARDIN,) supposes to exist in favor of the East, he has predicted that the day will ere long arrive when the weight of power shall be transferred to the West. It is because my feelings are all friendly to that portion of our Union that I dislike to hear such sentiments from sources so respectable. Gentlemen, without intending it, I am convinced, have been thus endeavoring to ex-

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cite jealousies between people whose feelings and whose common interest are both precisely the same.

With what justice has it been contended by gentlemen, that the money expended in the construction of a navy, has been exclusively for the benefit of the eastern section of the Union? Although it is now generally admitted that a navy is the best defence for all parts of the Union, yet it is peculiarly the bulwark of the country west of the Alleghany mountains. The extent of coast upon the Atlantic would render it impracticable for any hostile naval force altogether to prevent us from sending a portion of our produce to market; but let the mouth of the Mississippi be blockaded by a force of that description, superior to our own, and I ask what will become of all the surplus agricultural productions of the vast and fertile valley watered by that river and its tributary streams? The truth is, we are all so connected together by our interest, as to place us in a state of mutual dependence upon each other, and to make that which is for the interest of any one member of the federal family beneficial, in most instances, to all the rest. We never can be divided without first being guilty of political suicide. The prosperity of all the States depends as much upon their Union as the human life depends upon that of the soul and the body.

The State of Pennsylvania, about the illiberality of whose views on this subject so much has been said, never has acted towards you in the manner those interested in the Cumberland road have done. Had you advanced us the money to construct a road which would have been advantageous to our citizens generally, you should never afterwards have been asked to advance money to keep it in repair. We should have considered such a request both ungrateful and unjust. The citizens of that State, with the aid which she has liberally bestowed, have already completed eighteen hundred and seven miles of turnpike road, of which about twelve hundred and fifty are of solid stone. Laws have been passed for the construction of seven hundred and fourteen miles more. The State has expended upon these objects \$1,361,542, and individuals \$4,158,347. One of these roads runs nearly parallel with the Cumberland road, and connects the city of Philadelphia with that of Pittsburg. The gentleman from Tennessee, two years ago, found this road to be a bad one. The temper of mind with which people travel has a wonderful effect upon their judgment of the road, and I fear this cause has operated, in no small degree, upon the mind of my honorable friend.

It is expected that this road, as well as all others of the same kind in Pennsylvania, shall not only support itself, but yield some small dividend upon the stock subscribed for its construction. I ask, then, with what justice towards that State can you repair the Cumberland road out of the Treasury, and make it perfectly free? Even after you shall have placed toll gates upon it, there will be no fair competition. No more toll will be collected upon it than will be necessary for its preservation, whilst

our road, in addition to that amount, must pay an interest to the State, and to the stockholders. With what propriety, then, can Pennsylvania be censured for maintaining the principle that those who travel upon the Cumberland road, and are most interested in its preservation, should keep it in repair. She does not deserve, at your hands, that you should give a premium out of the public treasury, for the purpose of diverting travellers away from her road, and inducing them to use another which is in no respect superior. It will not be denied but that, in times of trial, she has both fought and paid with as much alacrity as any other State in the Union.

Notwithstanding all that has been said, I believe, as firmly as I do in my existence, that the friends of this road might with safety retrocede it to Pennsylvania. It would not be delivering up the lamb to the wolf, to use the expression of an honorable gentleman. Pennsylvania is now no more governed by a selfish policy, than when she ceded to the United States the soil over which the road passes. She then understood her true interest as well as now. There certainly has been nothing in her conduct since, which could induce a rational belief that she would destroy this great public work, if it were placed in her power. In that case she would do nothing more than impose a toll upon it, sufficient to create a fair competition between it and her own road; and then leave the public to decide which they would use. We do not, however, ask for a retrocession; all we desire is, that the road may hereafter support itself, and not be a perpetual drain upon the public treasury.

The existence of this road, I can assure gentlemen, is not a subject of such alarm to the State of Pennsylvania, nor to her metropolis, as they suppose. Whilst Philadelphia shall deserve the character which she has so justly acquired for commercial integrity, she will always find customers in the West, no matter over what road they may travel. Her experience has already proved the truth of this assertion. It is devoutly to be wished, both for the sake of her merchants and those of the West, that, hereafter, the latter may be able to comply with their contracts better than they have done heretofore. In making this observation, I have not the most remote intention of giving offence, because I know that the pecuniary embarrassments of people of the West arose from causes, the operation of which they did not at first foresee, and could not afterwards control.

We have all, then, arrived at this conclusion, that the road shall not be suffered to go to ruin. Whatever doubts may at present be entertained, either of the policy of its original construction or location, about which I have my own opinion, we must not now allow it to be destroyed. Before toll can with justice be demanded from travellers, it must be repaired. The mountain, which it is said has slid down into it, must be removed. From motives of generosity to the people of the West, and not of justice, I am, therefore, free to acknowledge, that I am willing a provision shall be introduced into the bill for the collection of tolls, ap-

propriating to the road this unexpended balance of \$9,194 25. After, however, we shall have given them that amount and our blessing, it should be explicitly understood that we shall never again hear any more demands for money from that quarter on the same account.

It may be asked why I am unwilling to make the appropriation in the present bill? For this, I will briefly state my reasons. The first is, that if the appropriation were once made, we have good reason for apprehending we should not again, during the present session, hear any thing about the collection of toll. It is at least certain that the friends of the road would not then be very anxious for the consideration of the bill providing for that object. We know that one of the gentlemen from Ohio, (Mr. CAMPBELL,) who spoke upon this subject, avowed his opinion that the General Government should always support this road out of the public treasury. I would, therefore, make a provision for the collection of toll, and the appropriation of this unexpended balance as inseparable as man and wife. I know they are unwilling companions, and I dread that, if the one should get the start of the other, it would be difficult ever to unite them.

Another reason which operates forcibly upon my mind is, that this donation has been introduced into the general appropriation bill for the support of Government. The impropriety of this course will appear manifest from considering the character of that measure. Its legitimate purpose is to provide for expenses which either have been, or will be, incurred under the authority of existing laws, or in pursuance of the well established policy of the country. The principle now to be decided by the House is entirely new. It is not as it was formerly, whether you will complete that which you have already commenced; but whether, after having completed, you will keep the road in repair. Appropriations for making the road were matters of course, after you had finally determined it should be constructed. The principle now before the House, however, being entirely new, should have been embraced in a distinct bill, and suffered to rest upon its own merits. When you legislate upon new subjects in a general appropriation bill, you give them an unfair advantage. You drag them along by the force of the bill to which they are attached; and, on its passage, you compel members either to vote in their favor, or stop the wheels of Government.

Upon the same principle that this provision has been introduced into the bill now before the House, you might introduce into it any other claim for money, whether of a public or a private nature. The consequences which would follow, from pursuing such a precedent, I need not detail to this House.

In this case, the precedent would be infinitely the more dangerous, should the grant be introduced into the general appropriation bill, for that very reason. It might then hereafter, with some degree of propriety, be considered as the settled policy of the country to support the road; and as

a pledge of the public faith that it shall be repaired out of the public Treasury.

In every view, therefore, which this subject has presented to my mind, I have been led to the conclusion that we should concur with the Committee of the Whole in their report, and strike out this appropriation from the present bill.

Mr. BAYLY, of Maryland, said: Mr. Speaker, I have not heretofore occupied as much of your time upon this floor as some other gentlemen have done, but shall, upon this question, give you a little of my slang. I consider this road a great national object. Some gentlemen take the liberty of talking a great deal without knowing much of the subject, and some of the newspapers have styled this the wisest Congress we have ever had; and, if being dilatory in action, is a mark of wisdom, it is eminently entitled to that appellation—in truth, we are a talking people, and take a long time to consider upon the most trifling appropriation. What is this \$9,000, compared with its object? Let us give it to them to make a good road, which will facilitate the intercourse between the East and the West, and diffuse knowledge. Some of our brothers in the West must stand in need of intelligence, otherwise they would not oppose the completion of this road. If we have not the means of communication, we shall in time become divided, and think we have separate and distinct interests. The Union cannot be preserved, except by commercial intercourse, and a free and easy commerce will always keep us united. Why was Alexander called ‘Alexander the Great?’ Not solely because he conquered the world, but because he connected together all parts of the world, in a grand commercial system—he built Alexandria, and associated his name with the great system of international knowledge and profit, of which he was the author. That is the true reason he has been universally called the Great. Nations whose interests are not united by commerce, become prejudiced, and despise and kill each other.

Pennsylvania, from her opposition, would seem more willing to put a mountain in the middle of the Cumberland road, than to repair it. A large portion of that State does not, nor never did, like this road; that is, the Pittsburg interest does not, because it does not pass through that town. Is this road exclusively advantageous to that part of Pennsylvania and Philadelphia? That is the question with them. I am myself perfectly disinterested, living upon the Atlantic, having never been on this road, and perhaps never shall, for I have no intention as yet of becoming an emigrant, and regret that, at present, such a mania prevails in the Atlantic States, of sinking fortunes in the western wilds; but I have no doubt that, in time, the tide will change, and these emigrants will see their error, and wish to return to the delightful land of their fathers, and then let them have a good road and bridges to facilitate their return. The distinctions of Northern, Eastern, and Western, or men of the woods, should be deprecated. We should be but one people, Americans—and this desirable object is to be attained and preserved only by keeping up an easy and comfort-

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able communication, and reciprocating benefits and favors to one another, and then we shall find that we think, feel, and speak alike. Ecod! then we shall be very good friends. Mr. Chairman, I only speak in the language of our brethren from the West. This is a great national object, and connected with the Chesapeake and Delaware canal, which can be easily affected, will unite, by an easy passage, the Western country with the whole Atlantic coast. New York is cutting a magnificent canal, for which she is entitled to great credit, but some of her great men here think that it goes round the world, and that no other national improvement is worthy consideration. Her politics seem to be bounded by De Witt Clinton and Daniel D. Tompkins, and all public improvements to end with this canal. She has wise men too, wiser no doubt than she has sent here for these two or three years. However, that State is great in resources, but she has received a little help in making her canal by her salt, and Saratoga waters, and tax upon travellers in steamboats. But this has not much to do with the subject. This road ought to be repaired, and then kept up by a toll. There should likewise be a good bridge over the Monongahela; and, instead of forty thousand dollars to build a wooden one, there should be one hundred and forty thousand to make a good substantial stone bridge—a good road, bridges, and canals, connecting the East with the West, will enable all parts of the country to lend speedy aid and assistance to each other, when they shall stand in need in the hour of battle.

The objection against making this appropriation upon Constitutional ground, comes too late; the road and bridges are nearly finished, and the appropriations heretofore made have been sanctioned by Presidents Jefferson, Madison, and Monroe, and by many Congresses. There is, however, now, rarely an appropriation that can be thought of, but some gentleman has Constitutional scruples, and one would suppose that, in Virginia, from the nice scruples manifested by some of her members, that it is there thought to be unconstitutional to have or to travel upon a good road. Mr. B. said, that he had merely risen to assist his Western brethren, that he had not any personal interest in the business, and that he believed that the gentleman from Richmond here, (who sat before him,) was in the same situation, and that he hoped that he would lay aside his Constitutional scruples, and lend his assistance.

Mr. CHAMBERS, of Ohio, observed, that he regretted much to rise at that period of the debate, and swell the list of speakers on the subject before the House, but, lest he should be thought indifferent to the fate of the present question, he felt it a duty to offer a few remarks against a concurrence with the Committee of the Whole in striking out the appropriation for repairing the Cumberland road. He was the more induced so to do, from observing so great an opposition in many parts of the House to granting this pittance, which, although deemed of immense importance in promoting the views and interests of the people of the West, was so small as scarcely to be worth con-

tending for. We do not claim this appropriation as a matter of absolute right, but appeal to the liberality of the representatives of this nation for a small share of the general benefits. He hoped that, independent of Constitutional objections, which he would not now argue, the present state and condition of the road, and the necessity of a prompt repair, which could be timeously effected in no other way, would be sufficient to induce the liberal and enlightened representatives of this nation to maintain this work, heretofore generally considered as of a national character. He did conceive that the arguments of his colleague, (Mr. ROSS,) the gentleman from Kentucky, (Mr. HARDIN,) and the gentleman from Maryland, (Mr. SMITH,) on this point, were unanswerable. He would not descant upon the millions expended on the seaboard in support of navigation, foreign commerce, the Navy, and fortifications, in which the people of the West have but little comparative interest, yet bear their proportion of the expense. The proportion of public moneys expended on the seaboard and Eastern section of the country, compared to that expended in the West, is at least as fifteen or twenty to one. The revenues drawn from the people to the East are recirculated among them, while the Western people are drained of nearly their last dollar for the public lands and foreign importation purchased. The gentleman from Pennsylvania (Mr. BUCHANAN) has opposed this appropriation, lest, if it be given, the bill to establish toll-gates may fail, and this road be again thrown upon the nation for support. That gentleman need not be alarmed on this ground. Mr. C. pledged himself to join in any reasonable measure for the support and maintenance of this road. It must be repaired; and, if he could do no better, he would agree to place toll-gates upon it. It was of as great importance to the people of the West, and they feel as deep an interest in its support as you can in your systems of commerce and navigation. Mr. C. finally observed he would not presume to impose on the good sense of the House by affecting a disinterestedness on this question. He never would affect that which was foreign from the truth. He was highly interested in this work, as are all the people of the West, and, therefore, would be excused for manifesting his earnest desire that this trifling sum would not be withheld from so important an object. For these, and many other reasons which he would not now attempt to urge, he hoped the House would not concur in striking out the appropriation.

Mr. WOOD, of New York, stated that he should have given a silent vote, had not the gentleman from Tennessee (Mr. JONES) challenged those who were opposed to this appropriation to give the reasons for their opposition.

He had Constitutional scruples as to the power of Congress to make the appropriation; the advocates of the appropriation had obviously confounded the power of the State and General Governments, as well as the Constitutionality and policy of the measure.

Mr. W. observed, that the subject-matter of the present discussion was a branch of the general

subject of internal improvements; that these were physical or moral; that the first head comprehended roads, bridges, and canals; and the second literary institutions, religious, and scientific establishments, corporations for mechanical, manufacturing, charitable, and other purposes, calculated to enlighten the public mind, improve the morals, invigorate the industry, and ameliorate the condition of society.

The real question, therefore, before the Committee was, have Congress the power to legislate upon the subject of internal improvements within the States?

He could not believe that there was a single member who had attended to the preceding enumeration, who would not disclaim any such power.

No such power was necessary to the purposes of the Union; the objects of the Union were the public defence and the regulation of trade; all the powers conferred on the General Government were merely subservient to these purposes; of this nature were the powers of raising armies, building a navy, making treaties, levying taxes, and enforcing the observance of the law of nations, treaties, and the laws of the United States, by judicial tribunals.

The several States retain every other branch of sovereignty, not expressly granted to the General Government, or necessarily incident to the exercise of some general grant of power; among these are the entire regulation of property and contracts, with a single inhibition that they shall not be impaired, the protection of the rights of person and property, the regulations of police, comprehending the administration of justice, and the direction and control of all internal improvements, physical and moral.

These powers are absolutely necessary to the improvement and prosperity of every community; they are indeed necessary to their self-preservation, essential to them as independent States, and it would have been political suicide to have surrendered them to the General Government.

All internal improvements, and more especially such as are physical, are local in their nature, and constantly require the fostering care and protection of local authorities, and a local supervision; the power over them must necessarily be exclusive, their prosperity, if not their existence, is incompatible with a divided jurisdiction.

The assumption of the power over internal improvements in the States, would lead directly to consolidation, and destroy every federal feature of the Constitution.

Again: The powers of the General Government are inadequate to the promotion of internal improvements. Roads in every State in the Union are made and kept in repair by towns and counties, and no Government can effect those purposes unless it has the control of property, is competent to take the land of individuals for that use—to levy a tax on the town or county to pay for it—to exact personal labor of the citizens to make and mend the roads, and to enforce penalties for the reparation of injuries done to them; nor, indeed, is any Government competent to the charge of in-

ternal improvements that, in addition to the above enumerated powers, does not possess that of incorporating turnpike, bridge, and canal companies.

Does the Government of the United States possess these powers? By the fifth amendment of the Constitution, land cannot be taken even for public uses without compensation—these uses are such only as are necessary to the execution of some authorized purpose, and by no induction can be construed to embrace lands for highways. Besides, the exaction of compensation for lands taken for such purpose from the people of the town or county would be a direct tax and a palpable violation of the second section of the first article of the Constitution, that requires that direct taxes should be uniform throughout the United States.

Should the General Government purchase the lands of individuals for this purpose, and make a highway on the said land, the purchase would confer no jurisdiction whatever over it. The only cases in which a purchase does this, by the eighth section of the first article of the Constitution, is confined to those which are made with the consent of the Legislature of the State in which the land lies, for the sole purpose of erecting forts, magazines, arsenals, dock-yards, and other needful buildings. Again: where the United States have no jurisdiction over the subject, they cannot enforce any regulations they may make respecting it, but must hold the land in the same manner as individuals, subject to the jurisdiction of the State. The courts of the United States cannot afford any protection to such property, but, for all injuries done to it, the General Government must rely wholly on the courts of the State where the land lies for redress. The powers of the General Government are, therefore, wholly inadequate to the control of internal improvements within the States.

Again: every power of the General Government is adequate to the end for which it is granted, but it is admitted, by all the advocates of the appropriation, that it is not competent for Congress to erect toll-gates on the Cumberland road, or to enforce any regulations respecting it, without the consent of the States through which it passes. I consider this a surrender of the whole argument, and a complete admission that the General Government has no power over the subject of internal improvements.

The same reasoning is applicable to every other species of internal improvement, and goes to show that Congress have no power, by incorporations, or otherwise, to interfere with the exclusive jurisdiction of the States over the subject, and that the only way in which Congress can aid internal improvements is, by subscription to State establishments.

It has been insinuated, that, although there is no express grant of this power to Congress, yet it results to the Government as incidental to other powers. Three only have been named: that relative to post offices and post roads, the one relative to internal commerce, and the one relative to the public force. By the 8th section of the first article of the Constitution, Congress have power to establish post offices and post roads. The object

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of this power is the speedy and regular communication of intelligence—it was exercised by the royal authority before the revolution in the colonies—it was vested in the Confederation, and was transferred to the General Government on its adoption—under no form of its administration was it ever considered, to authorize or require the opening of new roads. The obvious meaning of the power is to authorize Congress, from the roads already in use between different places, to select the one on which the mail shall be carried, and to designate the stations where the mail shall be opened. By the same section, Congress have power to regulate commerce among the several States—and in conviction of the benefits that would be afforded to commercial intercourse by the improvement of roads and canals throughout the United States, has prompted an effort in favor of the exercise of this power by the General Government; but no inducement of interest is sufficient to cancel the obligations of duty, or release us from a strict observance of the Constitutional limits of our authority.

The object of this clause is to secure the revenue, and to exempt the citizens from vexation and interruption in their commercial intercourse—the duties are paid at the port of entry, and if the goods are exported to other States unaccompanied with evidence of payment, are liable to seizure, and the person who has charge of them is liable to a penalty. The law, therefore, prescribes the evidence of payment, and the possession of the document secures the owner from interruption in the sale of the goods.

By the same section, Congress have power to raise armies, and every other power incident to the defence of the country, and it is conceded, that, if forts are necessary in any State beyond the limits of settlement, Congress may, from the necessity of the case, open roads to march the troops, and convey cannon and munitions of war to such station.

This is the extent of the power—it is the result of necessity, and ceases with that necessity, and is believed to be the only case authorized by the Constitution, in which Congress can make roads within the States.

Mr. W. concluded by saying that what he had stated, was in justification of the vote he should give on the question before the Committee; it was not the amount of the appropriation, but the Constitutional principle that would be violated, that rendered it important—that he had barely suggested the outline of an argument without detail or illustration—that, to save the time of the House, he forbore to enter further into the subject. He repeated that these were his views of the Constitution, which he was bound to support, and that the advocates of the appropriation must either remove his objections or excuse his vote.

Messrs. PLUMER, of N. Hampshire, REID, RHEA, MILNOR, and SERGEANT, expressed their opinions in favor of the concurrence; and Messrs. ROSS, WRIGHT, HARDIN, NELSON, of Maryland, STEWART, and SMITH, of Maryland, against it; when the question was taken thereon, and decided in

favor of the concurrence—yeas 105, nays 58, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barber of Ohio, Bassett, Bateman, Blackledge, Blair, Borland, Brown, Buchanan, Burrows, Burton, Cambreleng, Cannon, Cassedy, Cocke, Colden, Condict, Conkling, Conner, Crafts, Denison, Dickinson, Durfee, Eddy, Edwards of Connecticut, Edwards of North Carolina, Eustis, Farrelly, Findlay, Fuller, Garnett, Gebhard, Gilmer, Gist, Gorham, Gross, Hawks, Hemphill, Hobart, Hooks, Hubbard, Keys, Kirkland, Lathrop, Leftwich, Lincoln, Long, McCarty, McCoy, McDuffie, McNeill, McSherry, Matlack, Matson, Mattocks, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Morgan, Murray, Nelson of Virginia, Overstreet, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rhea, Rochester, Rogers, Ruggles, Russ, Russell, Sanders, Sergeant, Arthur Smith, Alexander Smyth, Spencer, Sterling of Connecticut, Stevenson, Stoddard, Swan, Taylor, Thompson, Tod, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Walworth, Whipple, White, Whitman, Williams of North Carolina, Wilson, Wood, Woodcock, and Worman.

NAYS—Messrs. Allen of Tennessee, Barstow, Baylies, Bayly, Breckenridge, Butler, Campbell of Ohio, Chambers, Cook, Cushman, Cuthbert, Dane, Darlington, Dwight, Hardin, Hendricks, Herrick, Hill, Holcombe, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Little, Lowndes, Malary, Mercer, Metcalfe, Mitchell of South Carolina, Montgomery, Moore of Virginia, Moore of Alabama, Neale, Nelson of Maryland, New, Newton, Patterson of Pennsylvania, Rankin, Reed of Maryland, Ross, Sawyer, Scott, Sloan, S. Smith, W. Smith, J. S. Smith, Stewart, Swearingen, Tomlinson, Trimble, Walker, Williams of Virginia, Williamson, Woodson, and Wright.

The amendment of the Committee of the Whole, in striking out the clause to provide for building a bridge over the Monongahela river, where the Cumberland road crosses the same, was also concurred in, without a division.

The question of concurrence with the Committee of the Whole in allowing to William Lambert one thousand dollars, as a compensation to him for taking the longitude of the Capitol, being under consideration—

Mr. COCKE moved to increase it to fifteen hundred dollars.

Mr. F. JONES named two thousand dollars, and Mr. COCKE withdrew his motion to enable his colleague, (Mr. JONES,) to try the sense of the House upon that proposition.

The motion was supported by Messrs. COCKE, NELSON, of Virginia, and RHEA, and opposed by Messrs. WOOD and HARDIN, when the question was taken, and the motion prevailed.

Mr. SIBLEY moved to amend the bill by inserting a provision to appropriate for additional surveys in the Territory of Michigan, the sum of twelve thousand dollars.

Mr. COCKE contended, and the SPEAKER decided, that the proposition was not in order; and no further motion to amend having been offered, the

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bill was ordered to be engrossed for a third reading; and then the House adjourned.

WEDNESDAY, April 10.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Holden W. Prout, administrator on the estate of Joshua W. Prout, deceased," reported the same, with a recommendation on the part of the committee that the said bill be postponed indefinitely. The bill was ordered to lie on the table.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act authorizing the adoption of measures to try the title of the Marquis de Maison Rouge, to certain lands," reported the same without amendment, which was committed to a Committee of the Whole.

Mr. RANKIN, from the same committee, reported a bill to establish an additional land office in the Territory of Michigan; which was read twice and committed to a Committee of the Whole.

Mr. RANKIN, from the same committee, also reported a bill vesting in the commissioners of the counties of Wood and Sandusky the right to certain lots in the town of Perrysburg and Croghansville, in the State of Ohio, for county purposes; which bill was read twice and committed to a Committee of the Whole.

Mr. GILMER moved that the Committee of the whole House, to which is committed the resolution submitted by him on the 7th of January last, making an appropriation for carrying into effect the articles of agreement and cession entered into between the United States and the State of Georgia, on the 24th April, 1802, and for other purposes, be discharged from the consideration thereof, and that the said resolution be committed to a Committee of the Whole on the state of the Union; and the question being taken thereon, it was determined in the negative.

The House then took into consideration a resolution submitted yesterday by Mr. KENT, requiring information from the proper department in relation to the public lands; which was agreed to.

On motion of Mr. COCKE, the House agreed to consider the Message of the President of the United States in relation to the compensation of the Attorney General; which Mr. COCKE proposed to refer to the Committee on the Judiciary; and he stated his object to be, that the committee inquire into the expediency of defining more particularly the duties of that officer within the District of Columbia.

After a few remarks by the mover, MESSRS. SERGEANT, ARCHER, and WILLIAMS, of North Carolina, the question was put, and the motion prevailed.

Mr. WOOD submitted the following preamble and resolution, which was read, and ordered to lie on the table.

Whereas it is important that the difference of longitude between the Capitol of the United States and observatories in Europe should be ascertained with the

greatest possible degree of precision: and whereas, pursuant to a joint resolution of the two Houses of Congress, of the 3d of March, 1821, William Lambert, appointed for that purpose by the President of the United States, has made sundry observations with that view, and has made his report thereof; and whereas, it would be injudicious, in a matter of such importance, to trust to the report of a single individual, however eminent in science, without having it examined by other professional men, of the first respectability: Therefore,

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be authorized to employ — competent persons, to examine the observations and calculations reported as aforesaid, by William Lambert; and further to concert with one or more of the observatories in Europe, to make correspondent observations on the eclipses of the satellites of Jupiter, or otherwise, for the purpose of verifying the results of the observations stated in the aforesaid report.

Mr. MITCHELL, of South Carolina, submitted the following preamble and resolution, which was read, and ordered to lie on the table.

Whereas an act, passed on the 2d day of April, 1808, entitled "An act concerning public contracts," has been so construed as to sanction the appointment of members of Congress to divers public employments, agencies, or trusts, by the authority of Executive officers of the United States; and whereas, on the purity of the Senate and House of Representatives, and their freedom from Executive influence, depend the liberties of the people, and the durability, soundness, and integrity, of the Federal Constitution:

Resolved, therefore, That the Judiciary Committee be instructed to report a bill for the purpose of preventing any member of Congress, while he continues as such, from executing or holding any employment, agency, or trust, in behalf of, or anywise concerning, the Government, either political, legal, or professional, to which the said member may be appointed, by any Executive officer of the United States.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act supplementary to the act, entitled "An act for the relief of the purchasers of the public lands prior to the first day of July, eighteen hundred and twenty;" an act for the relief of Alexander Humphrey and Sylvester Humphrey; and an act for the relief of Thomas W. Bacot; in which bills they ask the concurrence of this House.

A bill from the Senate, to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes; and a bill to enable the holders of incomplete French and Spanish titles to lands within that part of the late province of Louisiana which is now comprised within the limits of the State of Missouri, to institute proceedings to try the validity thereof, and to obtain complete titles for the same when found to be valid, were severally read twice, and referred to the Committee on the Public Lands.

A bill making appropriations for the support of Government for the year 1822, was read a third time and passed.

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APPROPRIATION BILLS.

The House then resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Navy of the United States for the year 1822, and on the bill making appropriations for the public buildings.

The Navy appropriation bill was first taken into consideration.

Mr. WILLIAMS, of North Carolina, moved to reduce the amount recommended by the Committee of Ways and Means in such manner as to dispense with an appropriation for compensation to the clerk of the commandant of the navy yard in the City of Washington.

The motion was supported by the mover and Mr. COCKE; and opposed by Messrs. SMITH of Maryland, MITCHELL of South Carolina, STEVENSON, LITTLE, and COLDEN.

The question was first taken on the largest sum, and carried; which was equivalent to a negative upon Mr. WILLIAMS's motion.

The various appropriations were made as recommended, and the bill having been gone through with—

Mr. COCKE submitted a proviso, the purport of which was, that no person who was in arrears to the Government, should receive payment under the appropriations of that bill, until those arrears were paid, or their accounts closed.

The proviso was adopted, and the bill making appropriations for the public buildings was then taken up, and Mr. BLACKLEDGE, chairman of the committee, in support and explanation of the bill, observed that, in reporting it, the committee were of opinion, the sooner the buildings are completed, the greater will be the advantage to the Government. They were more confirmed in their opinion on this subject, when they reflected upon the large sums which had already been expended upon the public buildings, and the appropriations which would yet be required to complete them. The appropriation asked for at this time, Mr. B. observed, was larger than the appropriation of the last year, and he was also aware of the greater caution which is at all times exercised by the House in appropriating the public money, which is by no one more approved than by himself, but he felt it a duty incumbent on him to advocate that sum, which, if appropriated, would have, in his opinion, a greater tendency to promote the public interest, than a less sum. Should the work, however, which is proposed to be done the present year be completed, he was authorized to say, that the annual appropriations would in future be less. The committee were anxious to recommend a less appropriation at this time, but were convinced that it could not be done consistently with the public interest, and the sum asked for, was estimated for a wooden dome. If gentlemen will refer to the report of the Committee on Expenditures, they cannot, said Mr. B., for a moment hesitate to agree with the Building Committee in their opinion; they will there find that there is annually paid to the architect, the superintendents, and head workmen, on the Capitol, \$14,000. By procrastinating the work, this item of expenditure will

continue to swell, and by the time the building was completed, would form no inconsiderable item in the whole expenditure. He therefore hoped there would be no objection, on the part of this Committee to fill the blank with the sum of \$120,000, which was asked for by the Committee on Public Buildings.

The recommendations of the committee were thereupon respectively agreed to; when

Mr. COCKE proposed to add a proviso, similar to that which had been adopted in reference to the Navy appropriation bill, which was agreed to.

The Committee then rose, and reported the said bills as amended.

In the House. Mr. TRACY opposed a concurrence with the Committee of the Whole, in appropriating a sum of about \$10,000 to make good a deficit to the marine corps in 1824, but the question being taken thereon, the motion to concur prevailed; and the residue of the bill making appropriations for the support of the Navy was concurred in, and ordered to be engrossed for a third reading.

The question of concurrence with the Committee of the Whole in their report upon the bill in relation to the public buildings, being under consideration—

Mr. SMITH, of Maryland, proposed to add the sum of six thousand dollars to the amount reported for building of wood, the dome of the centre building of the Capitol, with the view, and for the purpose, that it be built of brick.

Mr. TAYLOR expressed an opinion, that the construction of a dome of wood of so great extent, would be preferable to one of brick, and the question being taken, the motion was lost, and the amendments of the Committee of the Whole were respectively concurred in, and the bill was ordered to be engrossed for a third reading.

SOUTH AMERICAN GOVERNMENTS.

On motion of Mr. SMITH, of Maryland, the House then resolved itself into a Committee of the Whole on the state of the Union on the bill making appropriations for missions to the independent Governments south of the United States.

Mr. FARRELLY proposed a verbal emendation, by striking out the word "missions," and inserting, in lieu thereof, the words "diplomatic intercourse," but the motion was negatived.

Mr. BUTLER moved to reduce the sum of one hundred thousand dollars as proposed in the bill, to the sum of seventy thousand dollars, but the motion was negatived by a large majority; and the Committee rose and reported the bill without amendment.

In the House, the question on ordering the bill to be engrossed for a third reading, being about to be put,—

Mr. GARNETT rose, he said, to submit to the House a few observations on this bill before it was ordered to be engrossed. He was not in his seat at the moment when the second resolution proposed by the Committee on Foreign Relations, to appropriate \$100,000 for the purpose of carrying into effect the recognition of the independence of the late South American Provinces of Spain was

unanimously adopted. If he had been, he did not know that he should have opposed it at that time, as he considered the question as involving the amount of appropriation, rather than the principle of recognition. But now, that both resolutions were embodied in the bill, which was the effective act, he felt himself constrained, consistently with the vote he had given on the first of those resolutions, and with the opinions he entertained of the policy of the measure, to vote against it. He did not doubt that it was competent to this Government, at any period of the revolutions in South America, to have carried on a diplomatic intercourse with the Governments there, founded on the existing relations of the two countries, to be extended as those relations multiplied, but always to be confined strictly within the limits of our commercial connexions, or to such negotiations generally, as were absolutely indispensable. Indeed, it would be a very hard case, if nations were obliged to forego all the advantages which they might derive from an intercourse with each other, because their Governments were unsettled, and they had not decided who were to be their rulers. Such a state of things might continue for a long time to their mutual injury. In point of fact, sir, our Government has already treated with the independent Governments of South America. We have an agent, at this moment, in Buenos Ayres, who has been treating on the subject of the privateering regulations of that country, and we shall probably treat with Mexico, whether we acknowledge her independence or not, on the subject of the boundaries between that empire and the United States. The right to treat with a Government *de facto* on matters of importance and necessity had not been denied, and our exercise of it, in relation to the new Governments of South America, had not given, nor could it give just cause of offence to Spain, or to any other country. But, sir, the object of this bill is very different—it is not pretended that so extensive an intercourse as it proposes, is required by our actual relations with the independent provinces—its avowed purpose is to announce to them, that we have declared the obligations which bound them to Spain to be dissolved, and that we are, therefore, willing to treat with them as free and independent nations. It proposes rather a social friendly intercourse, founded on sympathy and choice, than a useful connexion founded on reciprocal interests. In this point of view, Mr. G. said, he had many objections to the adoption of the measure at this time, some of which he had already given in another form, and therefore he should not now repeat. He did not mean to enter into a general view of this subject.

He said he could not, in any light in which he had been able to view it, regard this question as one of principle, or believe that our acknowledgment of the independence of the South Americans was, as had been often said, a great moral duty. He had always considered, and still considered it, as exclusively a question of policy. If, sir, said Mr. G., this is a question of principle, why have we not acknowledged them before? Was not

Buenos Ayres, to all intents and purposes, as independent when it was proposed to acknowledge her before, as she is now, and more so than Mexico and Colombia are, in the latter of which, at least, a show of opposition is still kept up by the royalists? If the act had been done before, it would have been imprudent, but it would also have been generous; (not that he approved of that kind of generosity,) now it is only imprudent; for generosity implies sacrifice—some evil submitted to, or some good foregone; and it had been said we incurred no risk by the act; but as, in his humble judgment, we did incur risk, he should say it was generous. He was sure of one thing, it proceeded from a generous impulse.

If, sir, said Mr. G., this is a question of principle, why have we not long ago acknowledged the independence of Hayti, which has been established for a much longer period than that of any one of the South American provinces, and against which there has been no opposition for years past on the part of the mother country? The reason is very obvious—we are very properly restrained from acknowledging it, because it would be encouraging rebellion in a description of our own population, which it is our interest to keep in a state of subordination and obedience. Notwithstanding the strong motives of interest arising from our commerce with these people, (which is actually more valuable than that with all the provinces of Spanish South America,) to extend and strengthen our relations with them, the prudential consideration alluded to has been sufficient to counteract the combined force of opposite interests, and "moral duty."

Mr. G. said, these considerations clearly satisfied him, that every question of the acknowledgment by us, of the independence of other nations, must be controlled and decided by reasons of policy. Our Government had heretofore acted in relation to this question on considerations of policy. There was now no change in the nature of the question, though there might be in the circumstances affecting it. This was what remained to be determined, to decide on the propriety of the measure. We have only to ascertain whether the same motives of precaution and prudence existed, which had heretofore restrained us from acting, or whether they had ceased to operate. Believing then, as he did, that this was entirely a question of policy, seeing but very trivial advantages could result to either country from the adoption of the measure now; knowing that it did not contribute a mite to the independence of South America, which had been effected without our aid, and would continue in spite of our opposition; he was not willing to encounter danger, where it was certain that nothing could be gained by either party, and possible that something might be lost by both. Mr. G. said, this question should be considered calmly and dispassionately; but he was inclined to think gentlemen had always suffered themselves to be led away on this subject, by their feelings and sympathy; by some vague idea of similitude between the South Americans and ourselves; of resemblance in our history, and in our forms of government. They

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regard them, in short, not only as patriots, which they are, but as republicans, which they are not; but, for his part, though he was far from wishing to depreciate the noble exertions of those people for their independence, he had never yet seen any thing in their public proceedings to authorize the belief that they are capable of enjoying a government similar to ours, or any other form of free government. Independence was not desirable for them, because it gave them *ipso facto* a free government, but because it bestowed on them the means of obtaining it, and by emancipating them from a degraded vassalage, it permitted them to go on unimpeded, in the work of reform and improvement. As an instance of the notions of civil liberty, which prevail in these countries, he would only refer to the first article in the form of government proposed by Iturbide for Mexico, (and he believed the other States had adopted a similar provision in their constitutions,) in which it is declared, "That the religion of New Spain is, and shall be, the Roman Catholic and Apostolical, without tolerating any other;" and, in the 16th article, it is further declared, "That a protecting army shall be formed, under the title of the Three Guarantees, because it takes under its protection: first, the preservation of the Catholic religion, co-operating with all its efforts, that there may not be a mixture of any other sects, and attacking all the enemies that may injure it." He was not blaming all this; it might be very right for what he knew; it might be the best form of government of which they are capable; it might even evince a masterly policy in Iturbide, thus to engage a powerful priesthood in favor of the revolution, by promising to protect them; but the exclusive tolerance of one religion, to be enforced by such means, is calculated to show that the people are still in a very benighted state, and are really ignorant of the true principles of free government. However, then, we may sympathize with them, as every one must do in their efforts for independence and freedom, we should not suffer that sympathy to govern us in deciding on the propriety of our proposed acknowledgment.

But, gentlemen believe that no possible danger can result from this measure. He did not say the danger was *imminent*, but that there was danger, and that the benefit being little or none, the danger, however small, deserved to have its weight in our decision. He had before attempted to point out some of the evils which might possibly arise from our recognition; but there were various ways in which evil might arise out of the unforeseen connexions and combinations which would grow out of this event. He could not undertake to predict the precise manner in which it might operate, the time, and circumstances; but, independently of the danger of war, and many possible evils which he had attempted to indicate in his detailed declaration, there were others that were probable and portentous. What, sir, is more reasonable than to suppose that Spain, finding herself about to lose all her American territories, will seek to turn to some account those that remain to her, by selling them to some purchaser who will be able to retain

them? And this apprehension derives considerable support in the most recent intelligence from Spain, by which it appears that the subject of a transfer of her territories has been actually agitated in the Cortes. Now, suppose Spain should cede Cuba to England, or even the Havana, which the latter would be very glad to take at the price of Gibraltar, or of any other equivalent she could offer. Gibraltar is not now very important to England; the island of Malta answers all her commercial purposes in the Mediterranean. The Havana, on the other hand, would be the most important acquisition she could make. As a military position, it would enable her to command the whole Gulf of Mexico; and, as a commercial one, it would become the emporium through which she would supply the greater part of South America with the products of the world. She would establish over that country a complete influence; would monopolize its commerce, and deprive us of nearly all the benefit which we might expect, in the course of time, to derive from an intercourse with it. With France, who would be our natural ally against England in such an event—for the occupation of the Havana by the latter would be viewed by her with just apprehension—we are, unfortunately, on terms which forbid us to expect her hearty co-operation. It may be said, that the Havana might be ceded to England whether we recognised the independence of South America or not. It is true, this might happen; but we render it, by our act, much more probable. Sir, will not the resentment of Spain, when she hears of the step we have taken, dispose her much more strongly to yield to the overtures of England? And will it not preclude us from becoming her competitors in the purchase? She has the same equivalents to offer that we have, and the good will of Spain into the bargain. Sir, Spain would not let us have it now for three prices. It is a universal opinion in the United States that it is utterly incompatible with our best interests that England should possess Cuba; and it is a very general and a growing idea, that if Spain does not retain it, or it should not be independent, we ought to have, and must have it ourselves. Our act will not only prevent us from possessing it in the only safe and peaceful way, but, in all probability, produce the very event we have the most reason to deprecate. There are many other modes which will readily suggest themselves to the minds of gentlemen, by which England may profit by the measure we are going to take, and which it is unnecessary to dwell on. If Spain, as some believed, was disposed to recognise the independence of the provinces, neither they nor we would have suffered by a short delay, and all disagreeable consequences would have been avoided.

But, Mr. G. remarked, he had another objection to the measure, distinct from its policy—it was to the form of recognition we had adopted. When the original author of this measure, an honorable gentleman from Kentucky, now no longer a member, first brought it forward, as well as on the subsequent occasions, it was proposed merely to provide an outfit and salary for a Minister, to be sent to

the Government intended to be acknowledged—a proposition which, unaccompanied with the avowed purpose of the mission, would only have involved the right to treat with the Government *de facto*. But, sir, said Mr. G., what is the present proposition? Why, it is to announce a formal declaration which the Congress of the United States have made, *totidem verbis*, that the provinces of Spain have dissolved the bands which connected them with her, and that they no longer owe her allegiance. This is certainly true; but he doubted exceedingly whether any government had a right to declare that a nation or people no longer owe allegiance to another government, to which it had been due, and which still claims it. He knew no instance in which one government had made such a declaration in relation to another with which it was at peace. It necessarily involved the right to declare that nations did owe allegiance to other governments; and a future Congress would have just as good a right (if it were possible that, in subserviency to the views of Spain, or of the legitimates of Europe, they should be so disposed,) to declare that the late provinces of Spain had not dissolved the bands which connected them with her, and did owe allegiance. Those legitimates, on the same principle, might now declare that the United States still owe allegiance to England. If we can declare a people independent, without giving cause of offence, so likewise we can guaranty that independence without giving cause of offence. Could we now do this in relation to South America? It is but one step from this doctrine to that asserted by the monarchical governments of the old continent—that they have a right to interfere in the internal concerns and arrangements of other governments. We go farther, for they practise on this doctrine only in regard to neighbors, for which there is a show of pretext.

If the doctrine be just, and the rest of Europe may say, France shall not be republican, we may say, Mexico shall not be imperial. Mr. G. said he protested altogether against this principle. It was unjust, and it was not the interest of the republics of the world to assert it, because they were weaker than the monarchies. Like certain principles of national law—such, for example, as the right of search, the right of impressment, or the right of blockade, without an actual investment—it might be advantageous for those nations to assert it who could maintain it; but it was a principle which did not yet suit republics. The right of making or unmaking sovereigns by declaration, would be rather a dangerous thing for us. Let it remain where it alone exists—in the people of each country. He had considered the question of right as well as of policy, in reference to our interest; and here he begged leave to say, that it was absurd to attempt to draw a distinction between national interest and national honor and generosity. There were, to be sure, temporary and immediate interests, and there were remote and permanent interests; we should take a comprehensive view of both, and be governed by enlightened principles in our choice. A Government, particularly if

it was representative, had no right to be generous at the expense of the interests of the people. An individual may make sacrifices by which he does not expect, even ultimately, to be benefitted; a Government, acting for the people, cannot. The common phraseology of the world produces the fallacy that national interest and national honor are distinct. Nations, like individuals, are in the habit of boasting of their honor, generosity, and so forth. We have heard a great deal, of late years, of the generosity and magnanimity of England, in making so many sacrifices for the peace of the European continent, and in opposing the usurpations of Napoleon. Her authors and her orators have set forth her praises, in this respect, in very pompous strains, and the people of the Continent have been silly enough to repeat her boasts, and give her the credit for disinterestedness she claimed. But does any one seriously believe that England, in sacrificing so much for the peace and security of Europe, did not consider that she was surrendering inconsiderable and temporary for great permanent advantages? And, he would say, if she had acted on any other principle, she would have acted wrong. By the same principles we should be governed in our relations with South America. If we could have assisted her to achieve her independence, without bringing ruin on her as well as ourselves, we should probably have done so; for it is our interest that she should be independent. Generosity and interest would have corresponded; the only question would have been, as to the justice of our interference. But there can be no doubt, that, if the crowned heads of Europe were to commence a crusade against her, for the express purpose of putting down republican government, it would be both our interest and our duty to make common cause with her—to defend her, for the sake of defending ourselves; but, to maintain that it could ever be our duty to assist her when it was not our interest, or at least when it was against our interest, would be an argument utterly unsound and inadmissible.

Before I conclude, said Mr. G., I will make a few remarks relative to myself. I am perfectly satisfied with the reasons given by those gentlemen who voted against my declaration being inserted in the Journal—founded, as they were, on the inexpediency of establishing such a precedent; and I am gratified with the expression of their respect for my motives. The intention of that declaration, however, was to strengthen, (though certainly that was not required,) not to impair, the effect of the measure adopted by the majority, and to prevent my vote being misinterpreted at a distance, and at a future period, into hostility to the principles of the revolutionary Governments, and their independence: and certainly there was reason to apprehend this, when already that vote has been misconstrued by malignity, stupidity, or the obsequiousness which seeks to propitiate majorities, and to profit by flattery. I have been very undeservedly complimented for my sagacity in discovering dangers which were not visible to others. I do not pretend to have made any such discoveries. My merit or demerit consists solely in hav-

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ing adhered to the opinions I entertained, in common with many others, on the three former occasions, when this measure was discussed, since I have been a member of this House. I am, sir, equally undeserving the censure of singularity; it is known that my singularity was in my vote, not in my opinion. I am very far from blaming any one for yielding his opinion to the majority. There may be occasions, where questions of policy are involved, on which it may not be improper to make a compromise with our opinion; but it is a discretion, for the exercise of which it is exceedingly difficult to determine the proper occasion, and, when determined, it can never be exercised without danger.

The mischief is, when you once begin, you never know where to stop. You begin with great occasions, and you proceed from greater to less, until you have no opinion to compromise, and your only inquiry or care is to ascertain whether or not you are in a majority. Everything that is valuable in the character of a representative may be gradually destroyed by this system of compliance. Sir, the approbation of our own conscience is better than the applause of men. It was once my misfortune, or my fault, to have yielded my opinion to the majority. I allude to my vote in favor of the resolution under which Missouri was admitted into the Union—the most awful occasion on which this House ever had to act. I was opposed to it, not because I was an anti-Missourian, but because I was, if any thing, an ultra-Missourian. I was unwilling to deprive ourselves hereafter of the Constitutional argument, by admitting that Congress could impose any conditions whatsoever, on the admission of a State into the Union, even such as were thought nugatory; but I thought ruin threatened the country; I thought the safety of the Union—of the people, in danger, and I yielded my opinion to the majority, and voted for the resolution. I afterwards had an opportunity of recalling my vote; but had I lost that opportunity, this deviation, pardonable as it may seem, would have cost me much pain—pain that I would not have perpetuated by placing myself irrevocably in the same situation, for all the honors my country could bestow on me. Sir, my situation in being in so singular a minority is not an enviable one; but I am not afraid of minorities. A man who is afraid to be in a minority, is just as unfit for a legislator, as a man who is afraid to fight, is unfit for a soldier. I have, however, no occasion for uncommon fortitude to support the obloquy I may encounter. As far as I know, I have been censured by no one whose praise is, at least, very intensely to be coveted. Those who associate with me, and who know me, have done me the justice to bear testimony to the purity of my intentions, if not to the correctness of my judgment. As for those miserable panders to public opinion, who have aspersed me without knowing me; who, when I was in a large majority, and afterwards in a large minority, on this very question, were too cowardly to attack me, but waited, assassin-like, until my company had left me, to fall upon me; as to those boasted guardians of

national rights, those watchful sentinels of public and private liberty, the chosen conductors of the free press, who evince their attachment to the freedom of nations, by trying to put down the freedom of individual opinion, their clamor and their calumny pass by me as the idle wind. On this subject, sir, as on all others connected with my public conduct, I am without fear and without reproach. I neither deprecate censure, nor solicit praise. I am always happy in the good opinion of others, but I do not depend on it. I am self-poised.

When Mr. G. had concluded, the question was taken, and the order to engross for a third reading was carried by a large majority.

JURISDICTION OF JUSTICES D. C.

The House then went into a Committee of the Whole on the bill to extend the jurisdiction of justices of the peace in the District of Columbia to fifty dollars.

Mr. MITCHELL, of South Carolina, moved to amend the bill by striking out the enacting clause, so as to test the principle—his primary objection to it being, (so far as the reporter, from his position, was able to hear,) that it was unconstitutional, on the ground that it took away the right of trial by jury.

Mr. CONDIOT moved that the Committee rise and report progress; which was refused.

Mr. NEALE said he had calculated on the objections that were made to the provisions of the bill under consideration; but he believed, if gentlemen would attend particularly to the terms of the Constitution, they would come to the same conclusion that the committee did who reported the bill. The terms of the Constitution are, that "in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved." Mr. N. said he would be among the last to give a vote that would infringe or violate the Constitution; but he believed the provisions of the bill under consideration preserved entire the right of trial by jury. The bill authorizes either party, plaintiff or defendant, should either of them be dissatisfied with the decision of the justice of the peace, to appeal to the circuit court, where either may demand a trial by jury, or submit the same to the decision of the court. Gentlemen seem to think that the terms of the Constitution are imperative, and that the trial by jury must be had, in the first instance, before the justice of the peace. The error of this opinion, he believed, would be seen when we reflect that the Constitution does not define any particular time, or say at what stage of the proceedings, the trial by jury is to be had, but only guaranties to the citizen the right of trial by jury; consequently, the time when, or at what stage of the proceedings, the trial by jury is to be had, is a proper subject for legislation; provided you do not thereby prostrate the trial by jury, or involve it in such difficulties as would render it unavailing to the parties. Will the bill do this? It is believed not. It will be readily granted that a trial by jury would be better conducted before the judges of

your court than before a justice of the peace. Many questions might and would arise, relating to the competency of witnesses, &c. during the trial, which your judges are more competent to decide than a justice of the peace. Justice would of course be rendered more certain from a trial by jury before the court, than a trial by jury before a justice of the peace. And it will not be denied that the right of trial by jury is secured to the citizen that justice may be done. This bill, in fact, extends the right of trial by jury, because it gives the right of appeal where the sum exceeds five dollars, and upon all appeals there may be a trial by jury. But it is objected that the party appealing must give security before he can have his trial by jury; and this is thought to violate the Constitution. In answer to this objection Mr. N. would remark, that, to constitute particular tribunals for the adjustment of controversies, and to submit to the exercise of summary remedies, or to a temporary privation of rights of the deepest interest, are among the common incidents of life: such are submissions to arbitrations, such are stipulation bonds, forthcoming bonds, and contracts of service. Again, Mr. N. would ask, is obliging a non-resident plaintiff to give security for costs before he can have his trial by jury, or holding a defendant to bail, a violation of the Constitution? We know this is every day's practice, and no one, he believed, ever thought it unconstitutional.

The provisions of the bill, Mr. N. said, were not more unconstitutional than the summary proceedings authorized by your revenue laws, attachment laws, &c. It authorizes the commencement of suit by warrant, to be tried before a justice of the peace in the first instance, instead of the ordinary common law process, and the laws mentioned authorize proceedings in the first instance different from the ordinary common law proceeding, and yet the right of trial by jury is preserved. In the construction contended for by him, Mr. N. said he was supported by the authority of most of the States in the Union, whose opinion he would not urge as conclusive with the Committee, but it would, no doubt, have great weight. Many of the States, indeed he might say all but three or four, had extended the jurisdiction of justices of the peace to sums above twenty dollars; regulating in different modes the trial by jury where demanded, when the sum exceeded that amount. He believed he was further supported by the decision of the Supreme Court of the United States, in the case of the Bank of Columbia against Oakley, where the power given to the bank by an act of the General Assembly of Maryland incorporating the same, was incomparably greater than any power designed by this bill to be given to justices of the peace; and yet the court determined that the law was not unconstitutional, the right of trial by jury being preserved, although by that law a defendant could not exercise that right until the return of a *capias ad satisfaciendum, fieri facias*, or attachment by way of execution, which process might be in the first instance ordered against the debtors to said bank. Such a power, Mr. N. said, he would frankly acknowledge, he would not

consent to give to any corporation or individual. As to the expediency of passing the bill under consideration, Mr. N. would observe, that claims under fifty dollars, for which suits were brought, were generally due from persons in moderate circumstances, and the costs accruing on suits in this part of the District, must be oppressive. He would, before he resumed his seat, refer to a paper placed in his hands by the Mayor of this city, by which it appears that the costs in a case in the Circuit Court in the county of Washington, in this District, where the sum exceeds twenty dollars, (for example, he would take twenty-one dollars,) and where judgment should be confessed, would amount to about twenty dollars. If such a case should be disputed, and a trial had, with two witnesses attending two days each, and supposing the attorneys in the case to charge ten dollars each, the whole amount of cost would be forty-nine dollars and fifty cents, as estimated on this paper. He would leave the members of the Committee to estimate what the costs would be if there were many witnesses attending many days. Believing, as he did, that the provisions of the bill were not inconsistent with the Constitution, and that the passage of it would benefit the creditor, by enabling him more speedily to recover his debts, and benefit also the debtor by reducing the costs incident to the recovery of small debts, he felt himself bound to give it his support.

Mr. Woodcock thought that, by reference to the 7th section of the bill, it would be seen that the right of trial by jury was entirely taken away; and he contended that the right of appeal, for which it provided, was not a Constitutional substitute, nor a desirable privilege. His objection to the bill was founded rather on principle than expediency.

Mr. KENT said, in legislating for the District, he would always be influenced by the same motives and feeling that would govern him were he a member of the Legislature of Maryland. He would there support a measure, if it could be consistently done, that was called for by a large majority of the people. The bill before the Committee, from the memorials presented, was asked for by a large portion of the people of this District; and, although it was a disfranchised territory, and could only gratuitously have its wishes known on this floor, he, for one, would support them, when intrusted to him, even in that manner. All Mr. K. asked of gentlemen was to extend to this District the advantages of such laws as were enjoyed by their constituents in their several States, nineteen out of twenty-four of which had, by their laws, extended the jurisdiction of magistrates from thirty to one hundred dollars; and he presumed what was Constitutional in the different States was equally so in this District. In Maryland, this system had been in successful operation for several years, very beneficially, he believed, and entirely to the satisfaction of the people—there had not been a murmur against it, that he had heard, and he was willing to test the same system here, in order to avoid the expense, delay, and loss of time, which was experienced under the existing

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one. Mr. K. had no Constitutional scruples about the bill, inasmuch as the trial by jury was secured, if wished for, by the parties.

Mr. MERCER observed that when he assented to a report of this bill by the Committee on the District of Columbia, of which he was a member, he expressed his intention to reserve to himself the right of presenting his views on the subject, without being at all compromised by it. He said that that part of the District which was ceded by Virginia, was not, he believed, in favor of the bill. If such extortion as the gentleman from Maryland (Mr. NEALE) had described, in reality existed, he thought it was confined to that part of the District which was north of the Potomac. The portion which was taken from Virginia were desirous to retain their ancient rights and privileges. If an evil existed, it was to be corrected only where it was to be found, and the remedy was, not by altering the nature of the jurisdiction, but by limiting those fees by law, which might be deemed oppressive and unjust.

The subject was further discussed by Messrs. WOODCOCK, NELSON, of Virginia, MITCHELL, of South Carolina, MERCER, MOORE, of Virginia, in favor of the motion to strike out—and by Messrs. KENT, MALLARY, NEALE, CAMPBELL, of Ohio, and BATEMAN, against it.

The question being taken on the motion to strike out, it was decided in the negative—only about 25 rising for it.

After some further remarks on the subject, in which Messrs. WILLIAMSON, NEALE, and NELSON, of Virginia, took part, the Committee of the Whole, on motion of Mr. TOMLINSON, rose, and reported progress.

Mr. BALDWIN gave notice that he should, on Friday next, call for the considerations of the resolutions he had heretofore submitted on the subject of manufactures.

THURSDAY, April 11.

Mr. METCALFE, from the Committee on Indian Affairs, to which was referred the bill from the Senate, entitled "An act to abolish the United States trading establishment with the Indian tribes," reported the same without amendment; and the bill was ordered to lie on the table.

The House proceeded to consider the resolutions submitted by Mr. BASSETT on the 9th instant, the third of which being modified, by inserting "and naval" after the word "military," it was then ordered, that the said resolutions be committed to the Committee of the Whole, to which is committed the bill further to amend the several acts relative to the Treasury, War, and Navy Departments.

A motion was made by Mr. Wood, that the House do now proceed to consider the resolution submitted by him yesterday, in relation to the establishment of a first meridian for the United States; and on the question, Will the House consider the said resolution? it was determined in the negative.

Bills of the Senate, of the following titles, to wit: 1. An act supplementary to the act, entitled

"An act for the relief of the purchasers of public lands, prior to the first day of July, 1820;" 2. An act for the relief of Alexander Humphrey, and Sylvester Humphrey; and 3. An act for the relief of Thomas W. Bacot; were severally read the first and second time, and referred, the first to the Committee on the Public Lands; the second to the Committee on Commerce, and the third to the Committee on the Post Office and Post Roads.

Engrossed bills of the following titles, to wit: "An act making appropriations for the support of the Navy of the United States for the year 1822;" "An act making appropriations for the Public Buildings;" and "An act making an appropriation to defray the expenses of missions to the independent nations of the American continent;" were severally read the third time and passed.

JURISDICTION OF JUSTICES D. C.

The House then resolved itself into a Committee of the Whole on the bill to extend the jurisdiction of justices of the peace, in the recovery of debts, in the District of Columbia.

Mr. NELSON, of Virginia, proposed an amendment, the purport of which was to confine the operation of the law to future contracts.

The motion was supported by the mover, and opposed by Mr. NEALE, and lost.

Mr. WOODCOCK moved to amend the bill by introducing, as a second section, a provision, the object of which was to secure to defendants, in actions where the amount shall exceed the sum of twenty dollars, the privilege of demanding a trial by jury.

The motion was advocated by Messrs. WOODCOCK, WALWORTH, and NELSON of Maryland; and opposed by Messrs. WRIGHT of Maryland and NEALE; when the question was taken thereon and decided in the affirmative—ayes 56, noes 52.

Mr. WOODCOCK then moved that the Committee rise and report, with a view to recommit the bill, in order that the residue of the same might be made to correspond with the amendment which had been just adopted; but the motion was negatived.

After a remonstrance of sundry inhabitants of Alexandria had been read—

Mr. ROCHESTER renewed the motion to rise and report progress, which was carried; and

In the House leave was refused to the Committee of the Whole to sit again; and thereupon Mr. WOODCOCK moved that the bill be recommitted to the committee which reported the same, with instructions to make it correspond with the principle that had been introduced and adopted, in the Committee of the Whole.

Mr. NEALE proposed to lay the bill on the table, and announced his intention to move the further consideration thereof in the House. This motion, which took precedence of the former, was put and carried, and the bill was ordered to be laid on the table.

RELIEF BILLS.

The House then went into a Committee of the Whole on a bill for the relief of sundry citizens of Baltimore; a bill for the relief of certain distillers

in the sixth collection district of Pennsylvania; and a bill for the relief of B. H. Rand.

The first named bill was for indemnity for damages sustained by the sinking of vessels in the harbor of Baltimore for the protection of that city during the late war.

Mr. SMITH, of Maryland, moved to amend the bill in such manner as to have the payment of damages commenced from the day on which the vessels were respectively sunk, instead of the day on which the peace was concluded, as the committee had reported.

This motion gave rise to a long discussion, in which the mover, Mr. WRIGHT, Messrs. REED of Massachusetts, and LITTLE, supported, and Messrs. RICH, EDWARDS of Connecticut, WILLIAMS of North Carolina, and McCoy, opposed it; when the question was taken and the motion was lost.

Mr. WILLIAMS, of North Carolina, moved so to amend the bill as to limit the compensation to the time when the vessels were returned to the owners; but after a few remarks thereon by the mover and Mr. McCoy, the question was taken and decided in the negative; and no further amendment having been offered to that bill, or to the bill for the relief of B. H. Rand, the same were reported to the House without, and the bill for the relief of certain distillers in the sixth collection district in the State of Pennsylvania with an amendment.

In the House, the bill for the relief of certain citizens of Baltimore being under consideration—

Mr. LITTLE renewed the motion that had been made by his colleague (Mr. SMITH) in the Committee of the Whole, to amend the bill so as to make the payment of the damages commence from the day on which each vessel was sunk; but the motion was negatived by a large majority, and the bill, with the two other bills reported by the same Committee of the Whole, were respectively ordered to be engrossed for a third reading.

Mr. TRACY moved (it being 3 o'clock) that the House adjourn; but the motion was negatived.

The House then went into a Committee of the Whole on the report of the Committee of Claims upon the petition of the sufferers on the Niagara frontier during the late war.

Mr. TRACY rose and addressed the House in an animated and eloquent speech in opposition to the report (unfavorable) of the Committee of Claims, and concluded his observations by moving to strike out the word *not*, so as to give the resolution an affirmative character; and expressed his determination, if that motion prevailed, to move a further reference of the subject to a select committee, to report a bill for some relief, however inadequate, to these unfortunate sufferers.

The question was then taken, and the motion prevailed—ayes 56, noes 41; and the resolution, as amended, was reported to the House; which thereupon adjourned.

FRIDAY, April 12.

Mr. Cook, from the Committee on the Public Lands, reported a bill to confirm certain claims

to lots in the village of Peoria, in the State of Illinois; which was read twice and committed to a Committee of the Whole.

Mr. RANKIN, from the same committee, to which was referred the bill from the Senate, entitled "An act supplementary to the act, entitled 'An act for the relief of the purchasers of public lands, prior to the 1st day of July, 1820,'" reported the same without amendment, and it was ordered to be read the third time on Monday next.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act further to continue in force, and perpetuate, an act passed on the 20th day of April, 1818, entitled 'An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage,' passed the 2d day of March, 1799,'" and "An act supplementary to an act, entitled 'An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive,'" in which bills they ask the concurrence of this House.

The House took up and proceeded to consider the report of the Committee on Pensions and Revolutionary Claims, on the petition of Sarah Easton and Dorothy Storer: whereupon, it was ordered that the said report be committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting reports and statements of the number of persons employed in the Indian department, with a designation of such as have been appointed by the War Department, and such as hold appointments from the Governors of Territories; also the amount of money put into the hands of each Governor, superintendent, and agent, since the 1st of January, 1820; and how it has been applied;—rendered in obedience to a resolution of the House, of the 9th of January last. Which letter, reports, and statements, were referred to the Committee on Indian Affairs.

On motion of Mr. BASSETT, the order of yesterday, committing the resolutions submitted by him on the 9th instant, in relation to accountability for public moneys to the Committee of the whole House, to which is committed the bill further to amend the several acts relative to the Treasury, War, and Navy Departments, was rescinded. And the said resolutions were referred to a select committee; and Mr. BASSETT, Mr. HARDIN, Mr. GILMER, Mr. COCKE, and Mr. BLAIR, were appointed the said select committee.

The bill from the Senate, entitled "An act further to continue in force and perpetuate an act passed on the 20th day of April, in the year 1808, entitled 'An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage,' passed the 2d day of March, 1799,'" was read twice, and committed to the Committee of the whole House on the state of the Union.

The bill from the Senate, entitled "An act supplementary to an act, entitled 'An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive,'" was read twice, and committed to the Committee of the whole House on the state of the Union.

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Extra Pay to the Attorney General.

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was read twice, and referred to the Committee on the Public Lands.

Engrossed bills of the following titles, to wit: "An act for the relief of sundry citizens of Baltimore;" "An act for the relief of certain distillers within the sixth collection district of Pennsylvania;" and "An act for the relief of Benjamin H. Rand"—were severally read the third time, and passed.

DISTRIBUTION OF JOURNALS, &c.

Mr. POINSETT, from the joint Library Committee, who were instructed to inquire into the expediency of distributing the four volumes of the Secret Journal of Congress, and the Journal of the Convention which formed the Constitution, to those members of the sixteenth Congress who have not received them; and also to report on the propriety of distributing copies of the same books to the Athenæum, Antiquarian, Historical, and other learned Institutions in the United States; together with the Fourth Census, Pitkin and Seybert's Statistics, Wait's State Papers, and the Commercial Regulations of Foreign Countries. And who were also instructed to inquire into the propriety of purchasing a number of the sixth volume of the Laws of the United States, lately published by Davis & Force, for the use of the Library, and to be distributed among the members of the present Congress,—made a report adverse to the distribution, accompanied by the following joint resolution, viz:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Library Committee be and they are hereby authorized to purchase one hundred and thirty-eight copies of the sixth volume of the Laws of the United States.

Resolved, further, That the sum of five hundred and fifty-two dollars be appropriated for the purpose aforesaid.

The joint resolution was read twice, and committed to a Committee of the whole House to-morrow.

EXTRA PAY TO THE ATTORNEY GENERAL.

Mr. SERGEANT, from the Committee on the Judiciary, to whom was referred a Message from the President of the United States, furnishing, in compliance with a resolution of the House, certain information in relation to the amount of the public money paid to the Attorney General, over and above his salary fixed by law, since the 1st January, 1817, reported:

That the office of Attorney General was established by the act of the 24th of September, 1789, and his duty defined to be "to prosecute and conduct all suits in the Supreme Court, in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the Departments, touching any matters that may concern their Departments."

The same act directs that he "shall receive such compensation as shall by law be provided."

By an act of the 23d September, 1789, the compensation of the Attorney General was fixed at \$1,500 a

year. It has been raised by successive acts of Congress, from time to time, as the increased labor and other just considerations seemed to require, and is now \$3,500, which cannot be deemed more than a reasonable allowance, considering that the increased demand for the frequent legal aid of the Attorney General has made it necessary for him to reside at the seat of Government, and requires a much larger devotion of his time to the public service than was formerly called for.

From the act of 24th September, 1789, to the present time, no change has been made in the constitution of the office, or the definition of the duties which belong to it, nor is it believed that any such has been suggested; and it may, therefore, well be inferred that nothing has heretofore occurred to induce any one to suppose that a change was expedient; and the committee deem it fit to add, that they neither know nor have heard of any complaint that the office has not answered its purpose.

The appointments heretofore made, and the compensation heretofore and now allowed, have had reference only to the existing constitution of the office, and the duties belonging to it, as already stated.

It follows clearly that no department of the Government has a right, nor ever has had a right, to call upon the Attorney General to perform any other duties; and it would be difficult to show that an officer is under a greater obligation than a private citizen to render gratuitous services to the Government, particularly where they are of a nature to be estimated and paid for.

In the extensive and interesting concerns of the nation, it will nevertheless happen, as it has already frequently happened, that the Government will have occasion for other or further legal aid than that which their officers are bound, or in some cases able to afford. Such occurrences are, in their nature, contingent, and they can only be provided for by the establishment of offices, and the appointment of officers, upon a scale to embrace every possible contingency, (with adequate salaries and emoluments,) which, if it be at all practicable, would be onerous and wasteful; or by leaving to the Executive officers of the Government the power of engaging such aid, from time to time, as the occasions may occur; exercising this very inconsiderable discretion under the same responsibility as belongs to their more important duties: the latter has been the practice of the Government.

Where such occasional aid can be afforded by the Attorney General, without interference with his proper duties, (as in cases occurring at or near to the seat of Government,) there is no objection to his being employed upon the ordinary professional footing—of receiving a compensation for the service required. It was not the design of the office, as has already appeared, that he should render any other than the stated duties for the stated compensation or salary; and it was never understood or intended that the office was to deprive the officer of the right to employ his professional talents and learning for his own benefit, where that could be done without prejudice to the faithful performance of his stated duties. There is no good reason why the Attorney General should not, under the limitation just mentioned, be at liberty to engage in the general pursuits of the profession. Accordingly, such has been the usage, not only in the instance of the Attorney General of the United States, but, it is believed, of every State in the Union, to engage in private practice, abstaining only where it interfered with public duty.

In reviewing the past, then, the committee find nothing to disapprove. Where additional professional aid has been employed it seems to have been necessary and proper, and not to have been compensated beyond a fair and reasonable amount. Where compensation has been allowed to the Attorney General, it has been for services rendered which did not belong to his office, which he was in no manner bound to perform, and for which, therefore, if he did perform them, he was entitled to be paid as any other professional man would be. And they think it fit to state, explicitly, that in those instances where compensation has been allowed to the distinguished citizen who now fills the office, services have been faithfully rendered, well deserving what has been paid to him, and it certainly has not been greater than must have been paid to any other eminent lawyer.

In regard to the future, the committee can propose no other plan than that which has heretofore been adopted and approved. It seems to the committee to have well answered its purpose, and they perceive no good reason to fear that it will prove less effectual in future. They, therefore, offer the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

The report was ordered to lie on the table.

SUPPRESSION OF THE SLAVE TRADE.

Mr. GORHAM, from the Committee on the Suppression of the Slave Trade, to whom was referred a resolution of the 15th January last, instructing them to inquire whether the laws of the United States prohibiting the traffic in slaves have been duly executed; also into the general operation thereof; and, if any defects exist in those laws, to suggest adequate remedies therefor; and to whom many memorials have been referred, touching the same subjects,—made a report thereon; which was read, and ordered to lie on the table.

Mr. POINSETT stated that a bare majority only of the committee had agreed in making the said report; and he wished it to be distinctly understood that he (as a member of the said committee) did not concur in the measure recommended, which he deemed to be injurious to the best interests of the country.

The report is as follows:

The Committee on the Suppression of the Slave Trade, to whom was referred a resolution of the House of Representatives, of the 15th of January last, instructing them to inquire whether the laws of the United States prohibiting that traffic have been duly executed; also, into the general operation thereof; and, if any defects exist in those laws, to suggest adequate remedies therefor, and to whom many memorials have been referred, touching the same subject, have, according to order, had the said resolution and memorial under consideration, and beg leave to report:

That, under the just and liberal construction put by the Executive on the act of Congress of March 3, 1819, and that of the 15th of May, 1820, inflicting the punishment of piracy on the African slave trade, a foundation has been laid for the most systematic and vigorous application of the power of the United States to the suppression of that iniquitous traffic. Its unhappy subjects, when captured, are restored to their country, agents are there appointed to receive them, and a

colony, the offspring of private charity, is rising on its shores, in which such as cannot reach their native tribes will find the means of alleviating the calamities they may have endured before their liberation.

When these humane provisions are contrasted with the system which they superseded, there can be but one sentiment in favor of a steady adherence to its support. The document accompanying this report, and marked A, states the number of Africans seized or taken within or without the limits of the United States and brought there, and their present condition.

It does not appear to your committee that such of the naval force of the country as has been hitherto employed in the execution of the laws against this traffic could have been more effectually used for the interest and honor of the nation. The document marked B is a statement of the names of the vessels, and their commanders, ordered upon this service, with the dates of their departure, &c. The first vessel destined for this service arrived upon the coast of Africa in March, 1820, and, in the few weeks she remained there, sent in for adjudication four American vessels, all of which were condemned. The four which have been since employed in this service have made five visits, (the *Alligator* having made two cruises in the past Summer,) the whole of which have amounted to a service of about ten months by a single vessel, within a period of near two years; and since the middle of last November, the commencement of the healthy season on that coast, no vessel has been, or, as your committee is informed, is under order for that service.

The committee are thus particular on this branch of their inquiry, because unfounded rumors have been in circulation, that other branches of the public service have suffered from the destination given to the considerable force above stated, which, small as it has been, has in every instance been directed, both in its outward and homeward voyage, to cruise in the West India seas.

Before they quit this part of their inquiry, your committee feel it their duty to state that the loss of several of the prizes made in this service is imputable to the size of the ships engaged in it. The efficacy of this force, as well as the health and discipline of the officers and crews, conspire to recommend the employment of no smaller vessel than a corvette or sloop of war, to which it would be expedient to allow the largest possible complement of men, and if possible, she should be accompanied by a tender, or vessel drawing less water. The vessel engaged in this service should be frequently relieved, but the coast should at no time be left without a vessel to watch and protect its shores.

Your committee find it impossible to measure with precision the effect produced upon the American branch of the slave trade by the laws above mentioned, and the seizures under them. They are unable to state whether those American merchants, the American capital and seamen, which heretofore aided in this traffic, have abandoned it altogether, or have sought shelter under the flags of other nations. It is ascertained, however, that the American flag, which heretofore covered so large a portion of the slave trade, has wholly disappeared from the coasts of Africa. The trade, notwithstanding, increases annually, under the flags of other nations. France has incurred the reproach of being the greatest adventurer in this traffic,

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prohibited by her laws; but it is to be presumed that this results, not so much from the avidity of her subjects for this iniquitous gain, as from the safety which, in the absence of all hazard of capture, her flag affords to the greedy and unprincipled adventurers of all nations. It is neither candid nor just to impute to a gallant and high-minded people the exclusive commission of crimes, which the abandoned of all nations are alike capable of perpetrating, with the additional wrong to France herself of using her flag to cover and protect them. If the vigor of the American Navy has saved its banner from like reproach, it has done much to preserve unsullied its high reputation, and amply repaid the expense charged upon the public revenue by a system of laws to which it has given such honorable effect.

But the conclusion to which your committee has arrived, after consulting all the evidence within their reach, is, that the African slave trade now prevails to a great extent, and that its total suppression can never be effected by the separate and disunited efforts of one or more States; and as the resolution to which this report refers requires the suggestion of some remedy for the defects, if any exist, in the system of laws for the suppression of this traffic, your committee beg leave to call the attention of the House to the report and accompanying documents submitted to the last Congress by the Committee on the Slave Trade, and to make the same a part of this report. That report proposes, as a remedy for the existing evils of the system, the concurrence of the United States with one or all the maritime Powers of Europe, in a modified and reciprocal right of search on the African coast, with a view to the total suppression of the slave trade.

It is with great delicacy that the committee have approached this subject, because they are aware that the remedy which they have presumed to recommend to the consideration of the House requires the exercise of the power of another department of this Government, and that objections to the exercise of this power, in the mode here proposed, have hitherto existed in that department.

Your committee are confident, however, that these objections apply rather to a particular proposition for the exchange of the right of search, than to that modification of it which presents itself to your committee. They contemplate the trial and condemnation of such American citizens as may be found engaged in this forbidden trade, not by mixed tribunals sitting in a foreign country, but by existing courts, of competent jurisdiction, in the United States; they propose the same disposition of the captured Africans now authorized by law; and least of all, their detention in America.

They contemplate an exchange of this right, which shall be in all respects reciprocal; an exchange which, deriving its sole authority from treaty, would exclude the pretension, which no nation, however, has presumed to set up, that this right can be derived from the law of nations; and, further, they have limited it, in their conception of its application, not only to certain latitudes, and to a certain distance from the coast of Africa, but to a small number of vessels, to be employed by each Power, and to be previously designated. The visit and search thus restricted, it is believed, would insure the co-operation of one great maritime Power in the proposed exchange, and guard it from the danger of abuse.

Your committee cannot doubt that the people of America have the intelligence to distinguish between the right of searching a neutral on the high seas, in time of war, claimed by some belligerents, and that mutual, restricted, and peaceful concession by treaty, suggested by your committee, and which is demanded in the name of suffering humanity.

In closing the report, they recommend to the House the adoption of the following resolution, viz :

Resolved, That the President of the United States be requested to enter into such arrangements as he may deem suitable and proper, with one or more of the maritime Powers of Europe, for the effectual abolition of the slave trade.

HOOR OF MEETING.

Mr. EDWARDS, of North Carolina, moved that hereafter the usual hour of meeting of the House be eleven o'clock. He stated that he had punctually attended pursuant to the rule recently introduced; but that experience had shown that no benefit had been derived from it. Calls of the House had on two mornings been made, which he had opposed, although a quorum had not appeared; and, if all those who were absent would vote for the motion, he had no doubt it would give a majority sufficiently large to carry it.

Mr. TAYLOR called for the question of consideration, and the House agreed to consider the same—ayes 70, noes 59.

Mr. TAYLOR then moved to lay the motion on the table, which was negatived—ayes 43.

Mr. HARDIN was in favor of the motion; not only on the ground that the present rule was inconvenient and useless in its operation, but also because it interfered with business at the public offices which the interests of their constituents required. Mr. H. was desirous to attend his duty in the House and out of it. He also adverted to the incompatibility of accomplishing the business which was confided to the committees, with a perseverance in the present rule of the House.

Mr. VANCE called for the yeas and nays, which were ordered, and the question was taken, and the votes thereon were as follows: Yeas 79, nays 79. The question was decided in the negative by the casting vote of the Speaker.

NIAGARA SUFFERERS, &c.

The House took up and proceeded to consider the amendment reported by the Committee of the whole House on yesterday, to the resolution annexed to the report of the Committee of Claims, on the petition of sundry inhabitants of Niagara, in the State of New York; and the question pending yesterday at the time of adjournment, to wit: Will the House concur with the Committee of the Whole in expunging from the resolution aforesaid the word "not;" and being again stated—

Mr. WILLIAMS, of North Carolina, addressed the House in a speech of nearly an hour, opposed to a concurrence with the amendment of the Committee of the Whole.

Mr. RICH moved to recommit the report to the Committee of Claims, with instructions to report thereon pursuant to the principles of a report presented to a former Congress on the same subject,

allowing to the petitioners fifty per cent. on the value of their buildings destroyed, and thirty per cent. on their personal property exclusive of merchandise.

The motion was supported by the mover, Mr. TRACY, Mr. CAMBRELENG, and Mr. WALWORTH, and opposed by Mr. McDUFFIE, Mr. WILLIAMS, of North Carolina, and Mr. MCCOY.

Mr. BASSETT also made a few remarks in opposition to the recommitment.

The question was then taken, and the motion to recommit was lost by a large majority.

Mr. STEVENSON moved to amend the resolution by recommitting the subject to the Committee of Claims with instructions to report a bill providing indemnity to those claimants on the Niagara frontier, whose property, at the time of its destruction by the enemy, was so occupied by the American Government, as justified its destruction according to the usages of civilized war.

The motion was supported by the mover, and by Mr. TRACY, and opposed by Messrs. HARDIN, WILLIAMS, of North Carolina, and MCCOY, when the question was taken and decided in the negative.

Mr. TRACY then moved to refer the resolution to a select committee without instructions. A few remarks were made by the mover in favor of the motion, which was also advocated by Messrs. NELSON, of Virginia, and WRIGHT, and opposed by Messrs. HARDIN, and WILLIAMS, of North Carolina, when the question was taken, and the motion negatived.

The House then decided to non-concur with the Committee of the Whole, and agreed to the report of the Committee on Claims, unfavorable to the claim of the petitioners.

Mr. WHITMAN moved to adjourn, which was negatived.

Mr. BALDWIN, pursuant to notice, moved that the further orders of the day be postponed, for the purpose of taking into consideration a resolution submitted by him some time since, to alter the laws laying duties on goods imported and the question being taken thereon, it was decided in the negative—ayes 65, noes 79.

The House then resolved itself into a Committee of the Whole on a bill for the relief of the officers and soldiers engaged in the late war against the Seminole Indians.

Mr. EDWARDS, of Connecticut, moved an amendment of the bill, the purport of which was to deduct the amount which had been paid by the United States for the use and risk of the horses, from the sum claimed for their loss.

The motion was opposed by Mr. F. JONES, of Tennessee, and Mr. CANNON, and supported by the mover, Mr. MCCOY, and Mr. PLUMER, of New Hampshire, when the question was taken, and the motion was decided in the affirmative—ayes 54, noes 45.

Mr. MCCOY moved a further amendment; but, before any decision thereon, on motion of Mr. SERGEANT, the Committee rose and reported progress, and leave was granted to sit again.

The House adjourned.

SATURDAY, April 13.

The SPEAKER assumed the Chair at 10 o'clock, and a quorum not appearing—

Mr. EDWARDS, of North Carolina, moved for a call of the House.

Mr. ARTHUR SMITH proposed that the question be taken by yeas and nays, which was agreed to; and the question was accordingly so taken, and decided in the negative—yeas 55, nays 58.

It thus appearing that a quorum was present, the Journal of yesterday was then read.

Mr. SMITH of Maryland, from the Committee of Ways and Means, to whom the subject was referred by resolution of the 9th instant, reported a bill providing for the payment of the salaries of public officers, and for other purposes; which was read twice, and committed to a Committee of the whole House on the state of the Union.

Mr. CANNON, from the Committee on the Public Lands, to whom the subject was referred by resolution of the 9th instant, reported a bill relinquishing the right and title of the United States to certain lots of ground to the president and commissioners of the town of Tuscaloosa, in the State of Alabama; which was read twice, and committed to a Committee of the Whole.

Mr. RANKIN, from the Committee on the Public lands, reported a bill confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States; which was read twice, and committed to a Committee of the Whole.

Mr. NELSON, of Virginia, from the Committee on the Judiciary, reported a bill concerning Abner L. Duncan; which was read twice, and committed to a Committee of the Whole.

Mr. WOOD submitted the following resolution:

Resolved, That the Committee on the Library of Congress be instructed to inquire into the expediency of modifying or rescinding so much of the joint resolutions of the Senate and House of Representatives, passed the 27th March, 1818, and the 21st April, 1820, as relates to the publication of the foreign correspondence of the Congress of the United States, from the first meeting thereof, to the ratification of the Treaty of Peace, and also, that part of them which relates to the distribution of the publications therein mentioned, to the members of the 15th Congress.

After a few remarks on the subject by the mover, and by Messrs. MALLARY, NELSON, of Virginia, and PLUMER, of New Hampshire, the resolution was agreed to.

REPORT ON FORTIFICATIONS.

Mr. EUSTIS, from the Committee on Military Affairs, to which was referred the Message of the President of the United States, of the 26th March last, on the subject of fortifications, and particularly of those on Mobile Point and Dauphin Island, made a report thereon, which was committed to the Committee of the whole House to which is committed the bill making further appropriations for the military service of the United States, for

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Report on Fortifications.

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the year 1822, and for other purposes. The report is as follows :

The Committee on Military Affairs, to which was referred the Message of the President, of the 26th of March, on the subject of fortifications ; and particularly of those on Mobile Point and Dauphin Island, report :

That, on the important subject of defending the seacoast, they concur most fully in the opinion expressed in the Message. They are equally agreed in the preference of permanent works over those of a temporary and perishable nature, in all cases where they are adequate to the object. At the same time, a view of the numerous and extensive bays and rivers with which our country is indented, naturally suggests the idea that a floating force is required to co-operate with, and to derive protection from, the permanent fortifications.

The committee are further agreed, that it is the peculiar province and duty of the Executive Department of Government to select and determine on the proper sites, and on the nature and extent of the fortifications to be constructed. This power and this duty appertain necessarily to the President, who is commander of the national force, and is responsible for the national defence.

On the other hand, the means of carrying into effect the plans and designs of the Executive, are constitutionally and necessarily dependent on appropriations of money made by Congress. In the exercise of this power, which is exclusive on their part, it is the duty of Congress to inquire and examine into the nature, extent, necessity, or utility, of every object for which appropriations are required, and to judge of the expediency of granting or withholding them.

It is stated in the Message that an appropriation on account of the fortification on Dauphin Island was suspended by the last Congress in consequence of a doubt which was entertained of the propriety of that position ; that a new survey has been made, the result of which is reported, and the work, as originally contemplated, is recommended to be carried on.

The considerations which induced the last Congress to decline making an appropriation for Dauphin Island cannot be expected to be developed by this committee. It is well known, however, that the positions on Dauphin Island and Mobile Point, with their respective bearings and relations, and the extent and depth of the water-courses, were considered and made the subjects of public debate ; and it is to be presumed that the decision was made on due consideration of all the circumstances relating thereto, and with a just regard to public interests. Whether, and how far, they were influenced by a knowledge that the works on those sites had not progressed in proportion to the appropriations which had been already made ; and that, of \$377,800, advanced under the contracts for their construction, a considerable part had not been expended on the works, and remained unaccounted for, or that this item would have increased the loan of \$5,000,000, to which the Government was compelled in that year to resort ; and that of \$8,000,000, borrowed in 1820 and 1821, one-eighth part had been appropriated to fortifications in those years ; how far any of these considerations may have had an effect on the last Congress is not for this committee to determine.

The material facts on which the committee rested the opinion contained in their report of the 28th of

February, are sustained by the new survey, with two exceptions ; one giving only twelve feet of water, instead of eighteen, heretofore given by the first survey to the entrance of the anchorage ground under Pelican Island ; the other giving eight and a half instead of ten feet to the western channel. From this survey, it follows, and is, indeed, conceded, that one of the main objects of the fort on Dauphin Island, viz : that of covering the passage to the anchorage ground under Pelican Island, where our own or enemies' vessels might take shelter, and from whence they might annoy or protect the coast, is wholly lost, as the water is too shallow to float the smallest national vessel of an enemy. If the statement in the new survey be correct, that the depth of water in the western channel be ten feet at high water, and eight feet and a half at low water, and admitting that the pass of seven feet, laid down in Curtis Lewis's chart, has not been omitted in the late survey, the inference, drawn by the committee in their former report, is not materially affected, as, in either case, there is not sufficient depth of water for enemies' vessels of war to pass.

Other objects are now assigned for erecting a fortification on Dauphin Island, to contain one hundred and eight guns, requiring, in the estimation of the committee, the expenditure of one million of dollars.

First. That it would be important in the defence of New Orleans, as it would prevent the landing at Mobile bay, and render it dangerous for an invading force to land at any place between the Rigolets and the bay of Mobile, for the purpose of marching to the Mississippi above the city.

The importance of providing an efficient defence for New Orleans, is fully impressed on the minds of the committee. In their judgment, it is entitled to primary consideration, and no reasonable means or expense, necessary to secure it from attack, should be withheld by Congress. In addition to the works already projected, the committee would see with pleasure a proposal, and recommend an appropriation, for the small work on the Bayou Bienvenue, for repairing and strengthening Fort St. Philip, at the Plaquemine turn, with a work opposite to that fort on the western side of the Mississippi, provided a proper site can be had ; and for providing at Baton Rouge materials for a floating force.

It appears to be the opinion of the Board of Engineers that there is no danger of the landing of an enemy anywhere between Dauphin Island and the Rigolets, for the purpose of marching to the Mississippi above New Orleans. In their first report they observe, "We think that it is useless to say that an enemy cannot undertake any thing reasonable against that part of the frontier which is between the Lake Ponchartrain and Mobile bay ; the nature of the country uncultivated, and the facility to come from the West and the East to separate the vessels from the enemy's forces that would have thrown themselves into the country, and finally the non-existence of any profitable object, are motives enough to consider that part of the frontier sufficiently defended by itself."

With respect to any land operation on the part of an enemy from the bay of Mobile, the opinion expressed by the Board of Engineers, in the following extract from the same report, appears to be conclusive :

"An enemy that would attempt to go up Mobile, in order to get to Tombigbee and Alabama, would expose himself to be separated from the sea, by the arriving troops of the Westward, from the interior of

the country; and if to all this be added the difficulties of conducting, offensively, a divergent operation, through the two valleys that unite themselves, it may be concluded that, on that part of the frontier of the Union, all kind of offensive operation must be limited to occupy Mobile and Mobile town," &c.

Admitting that, according to the Message, it were practicable for an enemy, when we have possession of Mobile Point, to overcome the obstacle of shoalness of water, and that presented by an efficient floating force on our part, to destroy the small craft in which he must land, and that he should effect a landing with ten or fifteen thousand men, on Dauphin Island; that, leaving his vessels, provisions, and munitions, with all hope of retreat, in case of disaster, he should have the temerity to pass over to land, and hazard a march of two hundred miles, to Baton Rouge, that being the distance, as laid down in Ellicott's survey—between the rivers Mobile and Mississippi—that the brave militia, who conquered at New Orleans, the last war, should be wholly unadvised of his movement, and suffer him to pass unmolested; admitting, also, that no preparations for his reception should be made at Baton Rouge, how is his descent to New Orleans to be effected? Having left his ships and boats two hundred miles in his rear, he must march down the levee, on the left bank of the Mississippi, a distance of one hundred and fifty miles, part of the way with a morass on his left, liable to be arrested in his march by temporary batteries in front, at every turn of the river, to be flanked by gunboats in the river, and, in the last resort to have the levee cut from under him, and the country inundated, the militia hanging on his rear.

Under these circumstances, would an enemy of any foresight or calculation make the attempt?

The preference of permanent fortifications over a floating force, in all cases where they will fulfil the object, being admitted, the only question is, whether this is such a case, or whether, in other words, the contemplated works on Mobile Point and Dauphin Island will defend the bay of Mobile? That they will not, is admitted by the engineers, who state, in their report, that a floating force is required in aid of the permanent works. It is further evident, because it is well known and conceded that vessels of war which can pass the bar, may, especially by night, pass the forts, run on out of reach of their fire, and leave them harmless in their rear. Thus anchored and master of the bay, the defence of which was the principal object of the fortifications, what security remains for the shipping, the towns, and the immense property above, against which he may commit his depredations at his own time, and according to the nature and amount of his force? A moveable and floating force, as contemplated in the former report of this committee, appears to be the only satisfactory answer.

In the last report of the engineers, a calculation is made of the relative expenses of permanent and floating forces. It would not be difficult to show that the interest on two millions of dollars, the cost of the contemplated works on Dauphin Island and Mobile Point, amounting in ten years to one million two hundred thousand dollars, would be amply sufficient for a floating force for twenty years; nor would it be more difficult to prove, from experience, that permanent works also require constant expenditures for alterations, repairs, garrisons, &c.; and that positions have been heretofore taken on which permanent forti-

fications have been constructed at great expense, which are about to be abandoned, either on account of the positions, or because the nature or structure of the works are not approved, while a floating force is put in operation in time of war only, its expenses are limited by the war, and may, at the expiration of the war, be either preserved at a very small expense, or totally abandoned, which may perhaps be most eligible, preserving only their armament. It is also worthy of observation that, in their former reports, stating the necessity of a floating force to co-operate with permanent works to prevent an enemy from entering the Bay of Mobile, the engineers do not appear to have made these calculations nor indeed any objections to such a force. As this subject has been presented to the committee in a financial point of view, and as they have not yet obtained all the information necessary to enable them to give a detailed opinion in this report they leave that part of the subject for future consideration.

It is further stated, in the Message, that an enemy may take possession of Dauphin Island, and that he did so at the close of the last war. Having at the close of the war taken the small fort on Mobile Point, and possessed himself of the channel road, the enemy might make his incursions to Dauphin Island unmolested. It will also be recollected that he took possession of Tangier and Kent islands in the Bay of Chesapeake; but it is not inferred that it is therefore necessary to fortify these islands. If these should be fortified, others remain equally accessible to him in various parts of the coast.

From every view of the subject which the committee have been able to take, on a careful examination of all the facts, and with the most respectful attention to the opinions expressed in the Message, they do not find any justifiable cause for changing the opinion contained in their former report of the 28th of February, that it is inexpedient to construct the projected fortification on Dauphin Island.

In the opinion expressed in the Message, on the expediency of progressing in the completion of the fortifications on the seaboard, the committee entirely agree, and that the necessary appropriations therefor should be made. They are also well satisfied that, "in case any emergency should require it," the people would willingly submit to any burdens necessary to accelerate their completion. Whether, at this time, and under existing circumstances, they would be willing to increase the national debt, by recurring to loans, as in the two years last past, or that additional taxes should be imposed on them for this purpose; or whether the progress in these works ought to keep pace with, and to be limited by, the ordinary revenue of the country, are questions requiring, in the judgment of the committee, the most serious consideration of Congress.

All which is respectfully submitted.

VACCINATION.

Mr. BURTON, from the committee appointed to inquire into the propriety of repealing the act of 1813, to encourage vaccination, and if, on inquiry, it shall be proper, to report a bill to that effect, made a report, accompanied by a bill to repeal the said act; which bill was read twice, and ordered to lie on the table. The report is as follows:

The committee appointed to inquire into the propriety of repealing the act of 1813, to encourage vac-

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cination, and if, on inquiry, it shall seem proper, to report a bill to that effect, have attentively and deliberately examined the subject, and submit the following report:

The recent unfortunate occurrences in the State of North Carolina, having involved considerations of the utmost importance to society, and intimately connected with the dearest interests of humanity, your committee feel it to be due to the occasion to commence their remarks by a distinct and unequivocal declaration of their entire and unshaken confidence in the efficacy of the vaccine disease as a preventive of small pox. In addition to the experience of the most intelligent medical men, in all parts of the world, the committee have the satisfaction to state, that even the late unhappy accident in North Carolina has been attended by the consoling circumstance of another and a triumphant evidence of the virtues of vaccination. The inquiry, therefore, appears to be very properly limited to the mere expediency of the existing law, which authorizes the appointment of an agent, from and to whom letters may be transmitted free of postage.

While the committee would on no account offer a suggestion which could be construed to imply a doubt of the efficacy of vaccination, they conceive it may, nevertheless, be a question, whether the General Government can beneficially interpose for the furtherance of an object which seems, in a peculiar manner, to appertain to the municipal authorities in the several States, and which must, of necessity, be finally committed to the management and discretion of professional men, possessing the confidence of the community. All our regulations for the preservation of the public health are questions of police, wisely committed to those who are immediately interested, and therefore most likely to adopt efficient measures for their own safety. And it is doubted whether Congress can, in any instance, devise a system which will not be more liable to abuses in its operations, and less subject to a prompt and salutary control, than such as may be adopted by the local authorities. The privilege of franking letters, conferred upon an individual, for the purpose of enabling him to distribute the vaccine virus, and thereby to accumulate wealth, by levying contributions from all parts of the Union, affords an instance of monopoly as repugnant to the spirit of our political institutions as it is to the character of the medical profession, which, for public spirited and active benevolence, is too well established to require auxiliaries of this description in the performance of its duties. But another and more forcible objection presents itself. An establishment of this kind, under the authority of the General Government, naturally commands the attention of all portions of the country; and the numerous requisitions for the vaccine matter, from regions so extensive, must occasionally reduce any single agent to the necessity of either relinquishing the proffered fee, or of transmitting matter of doubtful character. Sub-agents must necessarily be employed to furnish a supply equal to the demand. Careless or incompetent assistants, guided more by cupidity than intelligence, may thus be instrumental in producing mischief, by the distribution of inert matter, or by the more fatal error of disseminating a pestilence instead of a prophylactic. That such unhappy mistakes may occur, is but too well attested by the recent events in North Carolina. The committee are, therefore, inclined to the belief, that

any single agency, for the whole Union, must always be liable to similar objections; and from which they apprehend no institution, clothed with the character of a lucrative monopoly or privilege, can be entirely exempted. If, however, it should be deemed advisable for Congress to continue to aid in facilitating the distribution of vaccine matter by the mode now in operation, the committee are of opinion that some of the evils to which they have adverted might be obviated by the appointment of two or more agents, judiciously located in our large cities, in different quarters of the Union. But, after mature deliberation, they have come to the conclusion that it would be still better to commit the subject altogether to the local authorities, who, with the aid of the professional men, will be more competent to the successful management of it—and to whom, they believe, it properly belongs. They, therefore, report the accompanying bill.

PUBLIC ACCOUNTS.

The House, on motion of Mr. RICH, went into consideration of the bill entitled an act, in addition to an act entitled an act providing for the prompt settlement of public accounts; when Mr. RICH proposed the following amendment to the bill:

SEC. 2. *And be it further enacted*, That, whenever, in the settlement of the accounts before mentioned, a difference of opinion shall arise between accounting officers, as to the extent of the credits to be allowed, under or by virtue of this act, such case shall be referred to the Secretary of War, whose decision shall be conclusive. And it is hereby made the duty of the said Secretary, to cause to be communicated to Congress, at the commencement of each session, a statement, comprising the names of the persons whose accounts shall have been settled the preceding year, agreeably to the provisions of this act, together with the amount which shall have been passed to the credit of each, under the several heads of expenditures, and upon other evidence than such as is prescribed by pre-existing laws and regulations.

SEC. 3. *And be it further enacted*, That, if any person shall swear, or affirm, falsely, touching the expenditure of public money, or in support of any claim against the United States, he, or she, shall, upon conviction thereof, suffer as for wilful and corrupt perjury.

Mr. COCKE moved that the bill, together with the amendments, be committed to a Committee of the Whole.

Mr. RICH opposed the motion; to whom Mr. COCKE replied.

Mr. MCCOY opposed the motion, and incidentally supported the bill, and Mr. NEWTON gave the bill his decided approbation.

On motion of Mr. WILLIAMS, of North Carolina, the bill was then ordered to be laid on the table, and the amendments submitted by Mr. RICH ordered to be printed.

On motion of Mr. SMITH, of Maryland, the House went into consideration of a bill further to amend the several acts relative to the Treasury, War, and Navy Departments, and, after a few remarks by Mr. H. NELSON, and Mr. SMITH of Maryland, the bill was ordered to be engrossed for a third reading.

THE TARIFF.

Mr. BALDWIN moved to discharge the Committee of the Whole from the further consideration of certain resolutions by him submitted, on the 7th of January, proposing an alteration of the laws laying duties on goods imported, and to commit the same to a Committee of the Whole on the state of the Union; and on that question he asked for the yeas and nays, which were thereupon ordered.

The motion was divided, at the call of Mr. EDWARDS of North Carolina, and a discussion of some length ensued, in which Messrs. BALDWIN, EDWARDS, of North Carolina, MITCHELL, of South Carolina, WALWORTH, MALLARY, TRIMBLE, SAWYER, CAMBRELENG, BUTLER, ROCHESTER, and SMITH, of Maryland, took part, when the question was taken thereon, first upon the point of discharging the Committee of the Whole, and decided in the affirmative—yeas 87, nays 66, as follows:

YEAS.—Messrs. Baldwin, Barber of Connecticut, Barber of Ohio, Bateman, Borland, Breckenridge, Brown, Buchanan, Burrows, Butler, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Colden, Condict, Conkling, Darlington, Denison, Dickinson, Dwight, Edwards of Connecticut, Farrelly, Findlay, Fuller, Gebhard, Gross, Harvey, Hawks, Hemphill, Herrick, Holcombe, Hubbard, F. Johnson, J. T. Johnson, J. S. Johnston, Keyes, Kirkland, Litchfield, McCarty, McSherry, Matlack, Mattocks, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Morgan, Murray, Nelson of Virginia, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of Pennsylvania, Rich, Rochester, Ross, Ruggles, Russ, Sawyer, Scott, Sloan, S. Smith, J. S. Smith, Spencer, Sterling of Connecticut, Stewart, Stoddard, Swan, Taylor, Tod, Tomlinson, Tracy, Trimble, Vance, Van Rensselaer, Van Wyck, Walworth, Whipple, White, Wood, Woodcock, Woodson, and Worman.

NAYS.—Messrs. Alexander, Ball, Bassett, Bayly, Bigelow, Blair, Cambreleng, Cannon, Cocke, Conner, Crafts, Crudup, Cushman, Cuthbert, Dane, Durfee, Eddy, Edwards of North Carolina, Eustis, Garnett, Gilmer, Gist, Hall, Hardin, Hill, Hobart, Hooks, Jackson, Lathrop, Leftwich, Lincoln, Long, Lowndes, McCoy, McDuffie, McNeill, Mallary, Matson, Mercer, Mitchell of South Carolina, Montgomery, Moore of Alabama, Neale, Nelson of Massachusetts, New, Plumer of New Hampshire, Rankin, Reed of Maryland, Reid of Georgia, Rhea, Arthur Smith, Alexander Smyth, Sterling of New York, Stevenson, Swearingen, Thompson, Tucker of South Carolina, Tucker of Virginia, Upham, Walker, Whitman, Williams of Virginia, Williams of North Carolina, Williamson, Wilson, and Wright.

Mr. BUTLER then moved, that the further consideration of the said resolutions be postponed to the first Monday in December next. As there was so much business of an important nature that required immediate decision, and the period of the session being limited to an early day, he thought it inexpedient to go into the discussion of a subject that would probably consume a fortnight. He also observed that the tariff should not be frequently altered, nor without great consideration, and he

believed it would be proper to examine the subject in the vacation, and the House would be better prepared to decide upon the subject at the commencement of the next session.

Mr. STEWART opposed the motion; it was a subject of the greatest importance to the revenue of the nation, and of much more importance than many other subjects before the House. The tariff, he remarked, was not a new question. It had long occupied the attentive consideration of the people of this country, and he thought it was time it should be considered by the House.

Further remarks were made in support of the motion by Messrs. MONTGOMERY, CUTHBERT, WRIGHT, CAMBRELENG, RHEA, MITCHELL, of South Carolina, MALLARY, and NELSON, of Maryland, and in opposition to the motion, by Messrs. FULLER, SAWYER, RICH, BALDWIN, STEWART, WOODSON, F. JOHNSON, NEWTON, of Virginia, and BUCHANAN.

Mr. RICH called for the yeas and nays, which were thereupon ordered, and the question was decided in the negative—yeas 65, nays 87, as follows:

YEAS.—Messrs. Alexander, Ball, Bassett, Bayly, Bigelow, Blair, Butler, Cambreleng, Cannon, Cocke, Conner, Crafts, Crudup, Cushman, Cuthbert, Dane, Eddy, Edwards of North Carolina, Garnett, Gilmer, Gist, Hardin, Hill, Hobart, Hooks, Jackson, Kent, Lathrop, Leftwich, Lincoln, Long, McCoy, McDuffie, McNeill, Mallary, Matson, Mercer, Montgomery, Neale, Nelson of Massachusetts, Nelson of Maryland, New, Plumer of New Hampshire, Rankin, Reed of Massachusetts, Reed of Maryland, Reid of Georgia, Rhea, Arthur Smith, W. Smith, Alexander Smyth, Sterling of New York, Stevenson, Swearingen, Thompson, Tucker of South Carolina, Tucker of Virginia, Upham, Walker, Whitman, Williams of Virginia, Williams of North Carolina, Williamson, Wilson, and Wright.

NAYS.—Messrs. Baldwin, Barber of Connecticut, Barber of Ohio, Bateman, Blackledge, Borland, Breckenridge, Brown, Buchanan, Burrows, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Colden, Condict, Conkling, Cook, Darlington, Denison, Dickinson, Durfee, Dwight, Edwards of Connecticut, Farrelly, Findlay, Fuller, Gebhard, Gross, Hawks, Hemphill, Herrick, Holcombe, Hubbard, F. Johnson, J. T. Johnson, Keyes, Kirkland, Litchfield, McCarty, McSherry, Matlack, Mattocks, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Alabama, Morgan, Murray, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of Pennsylvania, Rich, Rochester, Rogers, Ross, Russ, Sawyer, Scott, Sloan, S. Smith, J. S. Smith, Spencer, Sterling of Connecticut, Stewart, Stoddard, Swan, Taylor, Tod, Tomlinson, Tracy, Trimble, Vance, Van Rensselaer, Van Wyck, Walworth, White, Wood, Woodcock, Woodson, and Worman.

The question was then put on committing the resolutions to a Committee of the Whole on the state of the Union, and carried without a division.

On motion of Mr. H. NELSON, the House then took into consideration the bill for altering the times of holding the district court in the State of Mississippi, and after a few immaterial amend-

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Horses lost in the Seminole War.

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ments, at the suggestion of Mr. NELSON, of Virginia, had been adopted, the bill was ordered to be engrossed for a third reading.

HORSES LOST IN THE SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, on the bill to pay the officers and volunteers in the Seminole campaign, for horses lost in that service.

The question before the Committee was on a motion made by Mr. MCCOY to strike out the proviso; but he withdrew the motion with an intention of renewing it in the House.

The Committee then rose and reported the bill as amended, and the question was on concurring in the amendment, (which required the accounting officer to deduct, from the value of the horses to be paid for, the amount allowed and paid for the use and service thereof.)

The amendment was opposed by Mr. CANNON to the extent to which it went; and he supported, at considerable length, the justice and good policy of indemnifying the volunteers for their losses, as proposed by the original bill.

Mr. WOODSON also spoke at some length on the same side and to the same effect.

Mr. TUCKER, of Virginia, briefly submitted the reasons which restrained him from voting to grant the compensation claimed for the volunteers.

Mr. RHEA replied, and—

Mr. MOORE, of Alabama, contended, in a speech of some length, that justice, equity, and good faith, according to the understanding with the volunteers, required that compensation for the loss of horses, &c., ought to be made to them.

Mr. METCALFE took the general position that where the soldier has received less than the value of the horse for his service, the difference ought to be paid for his loss, but not more, and spoke some time in support of his opinion.

Mr. F. JONES replied to the arguments of Mr. METCALFE, and advocated the justice and equity of indemnifying the loss of horses, &c., sustained by the volunteers.

Mr. WOODCOCK made some remarks to show the propriety of modifying the bill (in the manner subsequently stated.)

Mr. BUCHANAN advocated the general principle of compensation for the horses; and

Mr. GILMER contended that the Tennessee troops were already fully paid, and this additional allowance was not demanded by justice or equity.

The question was then (about 5 o'clock) taken on concurring in the amendment reported by the Committee of the Whole, and decided in the negative—ayes 63, noes 65.

Mr. WOODCOCK then moved the amendment he had previously intimated, which was, in substance, to deduct any allowance previously made for the use of the horse, unless the volunteer shall show that he was re-mounted; in which case the deduction shall only extend to the time such volunteer served on foot; and provided, that if any payment had been made to any volunteer for clothing, such payment shall be deducted from the sum to be allowed for his losses.

Some debate took place on this amendment, on the part of Messrs. EDWARDS, of Connecticut, and WOODCOCK; after which it was agreed to without a division.

Mr. RICH then moved the adoption of an additional proviso, which was modified to read as follows:

"Provided, That no claim shall be allowed under the provisions of this act, until a proper return shall have been received by the accounting officers from the company to which the claimants shall have belonged, showing the number of horses lost in said company, in manner aforesaid, the time when lost, and the name of the owner."

Mr. F. JONES made some remarks to show that this amendment would produce no good effect, and would create useless difficulties in the settlement.

Messrs. MONTGOMERY, RICH, VANCE, CANNON, MALLARY, and MOORE, of Alabama, also made some remarks on the amendment, and the discussion continued until near six o'clock; when a motion was made to adjourn, which prevailed by the casting vote of the Speaker; and the House adjourned.

MONDAY, April 15.

Mr. ROCHESTER presented a petition of the members of the Board of Aldermen and members of the Board of Common Council, of Georgetown, in the District of Columbia, praying that the bill now pending before this House, to extend the jurisdiction of justices of the peace in said District, may be passed into a law, with an amendment, directing the justice to summon a jury to try cases exceeding twenty dollars, when required by either of the parties.

Mr. WARFIELD presented a petition and remonstrance, counter to the above, from twenty-five inhabitants of the county and town of Alexandria, in said District.

Ordered, That the said petitions and remonstrance do lie on the table.

Mr. MORGAN presented a memorial of sundry inhabitants of the city of New York, concerned in cotton spinning, stating that, owing to a misconception of the act of April, 1816, coarse cotton threads that are bleached or colored are admitted to entry upon the payment of only about one half the duty to which they are or ought to be subjected, and praying an explanatory act may be passed; which memorial was referred to the Committee of the whole House on the state of the Union.

Mr. NEWTON, from the Committee of Commerce to which was referred the bill from the Senate, entitled "An act to provide for the collection of duties on imports and tonnage in Florida, and for other purposes," reported the same with amendments, which were read, and the bill was committed to a Committee of the Whole.

An engrossed bill from the Senate supplementary to an act entitled "An act for the relief of purchasers of the public lands prior to the first day of July, 1820," was read a third time, and, after a few remarks by Mr. COCKE against the passage of the bill, and by Mr. MOORE, of Alabama, in favor of it—

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Mr. ALLEN, of Massachusetts, moved that the same be laid on the table; which was agreed to—ayes 65, noes 53.

The bill from the Senate altering the time of holding the district court in the district of Mississippi; and an engrossed bill further to amend the several acts relative to the Treasury, War, and Navy Departments, were respectively read a third time, and passed.

RETRENCHMENT OF EXPENDITURES.

Mr. HARDIN, from the committee appointed on the 18th of February last, to inquire whether any part of the public expenditure can be retrenched, without detriment to the public service; and whether there be any offices or appointments in the Government of the United States which have become useless and unnecessary, and can be dispensed with, made a report, in part, thereon. The report is as follows:

The select committee appointed to inquire whether any part of the public expenditure can be retrenched without detriment to the public service, and whether there be any offices or appointments in the Government of the United States, which have become useless and unnecessary, and can be dispensed with, report in part:

The first subject which presented itself to the Committee in the discharge of the duties imposed on them by the resolution of the House was, to ascertain, with as much certainty as practicable, the sums properly chargeable upon the revenue by the existing laws:

The next in order, the means of the Government to meet those demands.

The public debt, independent of the floating unliquidated demands, is \$93,423,605 73; the interest upon that sum, annually, is \$5,165,248 24:

The stock composing the debt, and when reimbursable, is shown by the following table:

Deferred six per cent. stock	-	\$ 1,525,826 12
Three per cent. stock	-	13,295,956 04
Six per cent. stock of 1796	-	80,000 00
Exchanged six per cent. stock	-	2,668,974 99
Six per cent. stock of 1812	-	6,187,006 84
Six per cent. stock of 1813, (\$16,000,000 loan,) - - -	-	15,521,136 45
Six per cent. stock of 1813, (\$7,500,000 loan,) - - -	-	6,836,132 39
Six per cent. stock of 1814, (\$25,000,000, and \$3,000,000 loan,) - - -	-	13,011,437 63
Six per cent. stock of 1815	-	9,490,099 10
Treasury note six per cent. stock	-	1,465,285 47
Treasury note seven per cent. stock	-	8,606,355 27
Five per cent. stock, (subscription to Bank of the United States,) - - -	-	7,000,000 00
Six per cent. stock of the loan of 1820	-	2,000,000 00
Five per cent. of 1820	-	999,999 13
Ditto of 1821	-	4,735,296 30
		<u>\$93,423,605 73</u>

The above amount of debt is reimbursable as follows:

In 1822, deferred six per cent. stock	\$566,588 75
In 1823, deferred six per cent. stock	692,836 47
In 1824, deferred six per cent. stock	356,400 90
	<u>\$1,525,826 12</u>

In 1825, exchanged six per cent. stock	-	\$2,668,974 99
Six per cent. of 1812	-	6,187,006 84
Treasury note six per cent. stock	-	1,465,285 47
Treasury note seven per cent. stock	-	6,606,355 27
		<u>18,927,622 57</u>

In 1826, Six per centum stock of 1813, (loan of \$16,000,000,) -	\$15,521,136 45
In 1826, Six per centum stock of 1813, (loan of \$7,500,000,) -	6,836,232 39
	<u>22,357,368 84</u>

In 1827, six per cent. stock of 1814	13,011,437 63
1828, six per cent. stock of 1815	9,490,099 10
1832, five per cent. stock of 1820	999,999 13
1835, five per cent. stock of 1821	4,735,296 30

Stock reimbursable at the pleasure of the Government:

Three per cent. stock	-	-	13,295,956 04
Five per cent. subscription to the Bank of the United States	-	-	7,000,000 00
Six per cent. of 1820	-	-	2,000,000 00
Six per cent. of 1796	-	-	80,000 00
			<u>\$93,423,605 73</u>

In addition to the public debt as it now stands, there will have to be added, it is presumed, \$5,000,000 of at least five per cent. stock to discharge the claims against Spain, agreeably to the stipulations with that Government, and which is the consideration for the purchase of Florida; which will make the public debt \$98,423,605 73; the interest upon which will be \$5,410,248 24 annually.

The estimates, as furnished by the Secretary of the Treasury, for the year 1822, stand thus:

Civil, diplomatic, and miscellaneous	\$1,664,297 00
Military service, &c.	5,108,097 52
Naval service, &c.	2,452,410 27
To the Naval service add	300,000 00

(part of the \$500,000 for the gradual increase of the Navy, not included in the estimate;) and, also,

The interest on the national debt, as above estimated, (which will be the amount after the year 1822,) - - 5,410,248 24

Making the sum of - - \$14,935,051 03

This estimate is made without allowing one cent to the Sinking Fund for the gradual discharge of the public debt.

The civil, diplomatic, and miscellaneous expenditures, they believe, are estimated too low; because the foreign intercourse about to be opened between the United States and Portugal, and also with the independent nations of North and South America, will add to the sum at least \$120,000. Although it may be objected, that, in the estimates for the military service, &c., a sum is included for arrearages prior to the 1st of January, 1817, yet it is believed by the committee that the deficiencies not included in the estimate in that department for the year 1821, which amount to \$521,886 57, are equal to the arrearages prior to the 1st of January, 1817. It may also be objected, that part of the estimates for the War Department—such

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as fortifications—are only temporary. To that it may be answered, that, when the fortifications are finished, the expenses will be rather increased than diminished, by the additional number of men necessary to man them. It may be further objected, that, in the estimates for the naval service, the sum of \$500,000 is included; which expenditure is also temporary, as the appropriation for that object is to last but five years. The committee are of opinion that the additional number of men and officers which the Navy will then require, in addition to the sums required from time to time to refit and keep in repair the vessels, will make a greater demand from that Department upon the Treasury than is estimated.

They would further remark that Congress, each session, upon an average, appropriates for temporary purposes, and which cannot be taken into any estimate, a sum equal to \$200,000.

They therefore have no hesitation in giving it as the result of their most deliberate opinion, that, according to the now existing laws, the estimate which they have made, of \$14,935,053 03, as a permanent charge upon the revenue, is not too high.

The committee will now proceed to the consideration of the means of the Government to meet the current demands against it. The estimates given by the Secretary of the Treasury are as follows:

Customs	- - - -	\$14,000,000
Public lands	- - - -	1,600,000
Bank dividends	- - - -	350,000
Arrears of direct tax and internal duties	- - - -	75,000
Moneys recovered out of advances made in the War Department before the 1st of July, 1815	- - - -	60,000
Incidental receipts	- - - -	25,000
Total	- - - -	\$16,110,000

The committee are apprehensive that the customs will not be as productive as by some have been supposed, and by others confidently predicted. For the year 1821 the receipts from the same source amounted to \$12,968,915 15.

Why then this increase in the estimates? It is a fact, well ascertained, that the exports of domestic articles for the year 1820 amounted to \$51,684,000; and that the exports of the same articles for the year 1821 amount to but \$43,671,894. Although the amount of imports may have an apparent increase, yet it may be considered as an axiom in political economy that the imports never can be considered as increasing, when, at the same time, there is a falling off of the exports. And if in any one year the imports shall appear to increase, when the exports, instead of a correspondent increase, are actually diminished, we ought to attribute it either to an excrescence upon the regular operations of trade, or that the imports were intended for exportation again. That the excess in the importations for the year 1821 was owing to an intention of re-exporting part of the same goods, is now manifested by the fact that the debentures will greatly exceed the estimate of the Treasury Department. They can therefore see no reason why the estimate for 1822 ought to exceed the amount received from the same source in 1821. But, suppose that the customs shall yield for a series of years \$14,000,000—and beyond that sum it would be entirely unsafe to estimate them; because, although the nation is increasing in population and wealth, yet with feelings of pride it ought to

be recollected that she is rapidly increasing in her domestic manufactures; and as far as they are consumed, so far will the foreign fabrics be thrown out of market, and part of the exports be turned into the channels of domestic trade by way of barter.

The duty arising from sugar imported will be greatly diminished, if not in a few years entirely cut off, by the use of the sugar of Louisiana and Florida. The estimate for the year 1822 of \$1,600,000, from the public lands, they flatter themselves will be realized, owing to the discount of 37½ per cent. which is offered to the debtors for public lands who shall pay by September next. All who do not avail themselves of the discount offered for prompt payment will accept the credit given by the act of 1821. From this circumstance it is believed, that, as a permanent source of revenue, after the year 1822, one million per annum would be a high estimate. The resource of public lands cannot be considered as entirely a permanent one; and they very much deprecate the policy of throwing so much land into market, and hope for the future it will not be pursued beyond the limits of the present States and Territories. The policy is ruinous to the Western country, by draining it of all the precious metals, and consequently embarrassing its circulating medium. The origin of all the pecuniary difficulties of the West may be traced to this cause. The impolicy of the measure is again made manifest, by dispersing the population over too great an extent of territory; by which means there is great danger that the Government, at a day not distant, if the policy be not checked, will fall to pieces by its own unwieldiness, and consequent imbecility. The administration of such a Government can never be felt to the extremities of the empire. This system of measures keeps up an irritated state of feelings between the Indian tribes and the people of the United States. Besides, humanity forbids the driving those unfortunate people to the ends of the habitable earth. At the same time, self-respect ought to restrain the United States from amusing and gulling them and the world about, in point of practice, the unmeaning word of civilization.

In the estimate of the bank dividend of \$350,000, on what data the Secretary went in making that estimate they know not, as the bank has never yet averaged 4 per cent per annum. The items in the estimate of seventy-five, sixty, and twenty-five thousand dollars, are not of a permanent character.

Suppose, then, the estimate of a permanent nature should stand thus:

Customs	- - - -	\$14,000,000 00
Public lands	- - - -	1,000,000 00
Bank dividends	- - - -	350,000 00
Total	- - - -	\$15,350,000 00

The estimates of the committee, as a permanent charge upon the revenue

14,935,053 03

Balance in favor of the revenue -

\$414,946 97

Which balance is scarcely sufficient to relieve the Treasury from its immediate embarrassments, and meet the unforeseen contingent expenses of Government. To talk of the present resources of Government, encumbered with the demands as now authorized by law; and, also, the present embarrassments of the Treasury, which will be more particularly noticed hereafter, as being sufficient to operate at all upon, much less redeem, within a reasonable time, the pub-

lic debt, is the veriest delusion that any enlightened people ever fell into, and nothing could keep it up but a reluctance at parting with any of the expenditures of Government. The conclusion of the committee, of the inadequacy of the present revenue, encumbered with the existing demands, is confirmed by the melancholy fact that, in 1820, the public debt was \$89,112,916 63; in 1821, \$91,294,416 51; in 1822, \$93,423,605 73.

The committee regret to find the Treasury not in as flourishing a situation as the President supposed, in his Message to both Houses of Congress, at the opening of the session: It is true that, on the first of January, 1822, there was a supposed balance in the Treasury of - - - \$1,777,648 58 which is part of the loan of 1821, and no part of the permanent revenue of Government.

That sum, nevertheless, is to be subjected to the following deductions - - - \$226,135 83

The estimate of the quarter ending the 31st of December, 1821, being estimated too high by that amount.

Deficiencies in the Indian and Pension Department, for the year 1821 - - - 521,886 57

Unavailable funds in the Treasury - - - 842,159 60

1,590,182 00

Leaving only - - - \$187,466 58

This sum of - - - 187,466 58

is all that is, in reality, left to discharge the balance of appropriations for the year 1821, which must be required, and which amounts to - 2,268,611 28

Leaving a balance of - - - \$2,081,144 70

which must remain a charge upon the revenue of 1822.

From the previous part of this report, these three conclusions are clearly deducible.

First. That the present resources of the Government are scarcely equal to the authorized and current demands upon the Treasury, without operating upon any part of the principal of the public debt.

Secondly. That the Treasury, after deducting the deficiencies for the last year, the over estimate for the quarter of the year ending 31st of December, 1821, the amount of unavailable funds, and the balance of appropriations, as above stated, which will be required, is in arrear \$2,081,144 70, for the year 1821, which sum must be charged upon the revenues of 1822.

Thirdly. That the public debt now amounts to \$93,423,605 73, and will shortly amount to \$98,423,605 73.

The question comes fairly before the nation, What disposition shall be made of the public debt? Shall we go on and make the experiment, and solve the question long agitated among politicians—is a national debt a curse or a blessing? The committee, however solicitous some may be to try the experiment, and

leave to the silent operations of time the solution of the proposition, are unanimously of opinion that every effort, within the power of the Government, and which would not be extremely prejudicial to the interest of the people, should be made to redeem the public debt as soon as possible.

A national debt creates, in the persons of the stockholders, a proud, haughty aristocracy, in their manners extremely offensive, and ever destitute of that kind of patriotism and love of country that would sacrifice their pecuniary interest for that of the nation. It creates a body of men whose interest is separate and distinct, and at war with that of the great mass of the people, and who have an undue influence upon the administration of Government. The stock contributes nothing to the support of Government, when every other kind of prosperity does. The balance of the nation, as we see by an example in Great Britain, become the slaves, the hewers of wood, and drawers of water, for the stockholders. Already have the people of the United States paid to the stockholders, on the score of interest, \$119,489,394 84.

Money has been emphatically denominated the sinews of war. A payment of the public debt in times of peace is a much better and more pleasing preparation for war than armies, fortifications, and navies. It puts public credit upon a better footing, and, in another war, loans can be more advantageously obtained. In every war, the nation may be engaged in—and an exemption from that scourge of mankind is not to be expected—a resort must be had to loans. The consequence will be, that, if the public debt is not paid off in times of peace, and additions made to it in times of war, the payment of the interest will become an insupportable burden.

In 1816, a sinking fund was created of ten millions. It is believed by the committee, that unless commerce is much more prosperous than can be anticipated, that with the most rigid economy practicable, consistent with keeping up the necessary establishments of Government, and without resorting to the aid of internal duties and taxes, the Government cannot set apart ten millions of her revenue on account of the public debt; and that, instead of ten, eight millions will be the extent; but whatever the amount of the Sinking Fund may be, the same should not be nominal, but real, and held inviolate, and never touched for any other purpose. The people would thereby have certain assurances, that the national debt would be discharged within a given time. The full operation of a sinking fund of eight millions, would redeem the public debt in 1842, by extinguishing first the six per cent. stock until the seven shall become reimbursable, and then operate upon the stock bearing the highest interest first, computing the three per cent. stock at two-thirds the nominal amount. In this estimate, the stock which will be created on account of the purchase of Florida is included, and the stock due the Bank of the United States excluded, because the stock which the Government has in Bank, will always be equal to the like amount of five per cent. stock due the Bank.

From the facts exhibited in this report, and the conclusions deduced therefrom by the committee, these questions necessarily occur:

First, has the Government the means of creating and keeping up a sinking fund of eight or ten millions; and if she has, what are those means?

Some politicians have supposed that, at the end of each fiscal year, there will be an unexpended balance

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of appropriations which will be required in the year succeeding, and that the same will average from year to year, one million and a half of dollars; that the Government can consider that sum as a bank would her deposits, and carry the same to the credit of Government for the succeeding year. The amount of unexpended balances which will be required to meet the object of appropriations, depends so much upon unforeseen events, and contingencies, (some years the appropriations are deficient, other years, when the Government has a full Treasury, and appropriates liberally, the balance may be considerable,) as, in the opinion of the committee, to render that sum too unsafe and precarious to be calculated upon.

The means within the control of Government are not temporary loans, as a late short-sighted policy seems to indicate, but they are, first, a new modification of the tariff of duties; secondly, retrenchment in the expenditure of Government; thirdly, internal, direct, and indirect taxation.

In relation to the first question proposed, the committee decline going into the question with any other view than that of revenue; they do believe that an additional duty upon woollen manufactures, and that a diminution of the duties already imposed upon articles, particularly cotton, imported from countries beyond the Cape of Good Hope, would increase the customs; besides, should the whole tariff be revised with no other view than that of revenue, they have no doubt but that the same could be made much more productive. As it respects the second proposition, to wit, a retrenchment of the expenditures of Government, the committee disclaim all intention of cutting down and destroying any one useful or necessary establishment of Government; but, at the same time that they make this declaration, they have no hesitation in saying that, from the best investigation they can give the subject, that such retrenchments can be made in public expenditures as will save to the Treasury, annually, near two millions of dollars, and not impair or weaken any of the permanent establishments of the Government; but, on the contrary, give it renewed health and vigor, like cutting away the dead timber from a forest of young trees. If there be one feature in the administration of the different Governments of the earth more uniform, more alike, and more inveterate than any other, it is the continued disposition to increase the expenses of Government, and an unwillingness to retrench; the cause is obvious: those in power are disinclined to part with any of the emoluments of office. Even should not much be saved by efforts towards retrenchment, yet a check to the present disposition of Government to increase the expenditures thereof, is gaining a great point. Fabius, the Roman Dictator, and Washington, both thought, and so did their countries, that to prevent the enemy from gaining a victory, was to obtain one themselves.

The committee, in this report, decline going into the several subjects of the retrenchment which they intend to propose; because each distinct subject will form the basis of a separate report and bill.

The third subject proposed in this inquiry, as forming a part of the ways and means of Government, is a resort to a system of internal, direct, and indirect taxation; this mode of raising and collecting a revenue is at all times to be avoided by Government, unless the most imperious necessity requires it—such as war—when the other resources of Government are to a great extent cut off. In the imposition of internal direct

taxes, only such objects can be selected as are visible, and to a certain extent tangible; it consequently falls principally upon the agricultural part of the country, and the great moneyed capitalists escape its operation. Owing to that clause in the Constitution, which compels Congress to apportion direct taxes according to the representation, it falls unequally upon the different States, some paying three times as much upon the hundred dollars as others; again, the collection of that kind of revenue is odious and oppressive, because there is no choice left to the people, whether they have the means of payment or not, as there is in the duty collected from the consumption of goods; and nothing is so consoling to the feelings of a man as to have, or seem to have, the right to elect whether he will pay the tax or not.

The very collection of that kind of revenue is vexatious in its operation, by introducing into the domestic circle of man the rude and not unfrequently fraudulent tax-gatherer; moreover, internal taxation is the only source left to the States to support their respective governments, and common justice towards them forbids a resort to this kind of revenue, until every other means shall fail; besides, two sets of tax-gatherers at the same time collecting from the people, renders it difficult for them to know how much they owe to each government, and greatly increases the facilities which the collectors of the revenue too frequently avail themselves of, to practise frauds and impositions in their collections. Another reason, which has great weight with the committee, is, that it costs the solvent man more to get his contribution in that way into the public Treasury than any other mode of collecting a revenue ever resorted to by the United States. From an inquiry at the Treasury Department, it is ascertained that the gross amount of the direct tax, since the formation of the Government, is \$14,029,997 60; the payments into the Treasury from the same source, is \$12,626,813 50; from which deduct \$672,516 27 for the expenses of collection, which leaves a balance of \$11,954,297 23; this result shows that, from former experiments, it has cost the man who did pay \$14.78 for each \$100 that reached the Treasury. The gross amount of internal duties for the same period is \$25,015,720 43; the amount received from the same sources is \$21,957,061 14; the expenses of collection \$2,105,317 78, which, deducted from the amount received, leaves \$19,851,743 16—the per cent. is \$20 64. The above calculations include insolvencies of individuals, defalcations of officers, and all the expenses of collection.

It is probable that some of the outstanding debts and dues may yet be collected, but it is believed the amount will be trifling.

The gross amount of customs for the same period is \$494,933,179 11; the expenses of collection are \$14,356,853 97; making \$2 90 upon each hundred dollars. In 1819, an estimate was made of the amount of revenue bonds due, and the whole amount was equal to forty-five cents upon the hundred dollars of the gross amount of the customs, the greater part of which bonds are considered recoverable; since 1819, the revenue bonds due and unpaid, have not increased in a greater proportion.

The foregoing considerations induce the committee to believe, that it would be unwise and impolitic to resort to the ways and means of internal duties and taxes for the support of Government, and redemption of public debt, at this time, when every object of Government can be answered without it.

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The committee cannot, in justice to themselves, conclude this report without bringing to the view of the House the former operations of this Government under the Administration of Presidents Jefferson and Madison. In 1801, at the commencement of Mr. Jefferson's Administration, the public debt was \$83,038,050 80; the whole amount of revenue for that year was \$12,846,530 95, and from that period up to the year 1812, inclusive, \$48,254,675 01, of the principal of the public debt was redeemed without resorting to internal, direct, or indirect taxation, and with a commerce embarrassed and trammelled by embargoes, restrictions, and non-intercourse; French Berlin, and Milan decrees, and British orders in council; and at the same time deriving little or no aid from the sale of public lands, and a very inconsiderable sum from loans, except the loan of 1812, which was obtained to enable the Government to prepare for war. It has been said by some, that the Government can, without any material alteration in her present ways and means, meet her current expenses as now authorized by law, and, within a period not very remote, pay off the national debt; to support this position a reference is made to the amount paid since the war; the public debt in 1816, was \$123,052,782 62, which is the highest point to which it ever arrived; at the same time there might be a floating debt, such as arrearages due the Army, &c. The reason of this operation upon the national debt is obvious; the Government had at that time extraordinary means; the proceeds of the war taxes and duties; also, an unexpended balance of the loans of 1815 and 1816; the excessive importations immediately after the war, made the receipts of the Treasury, from customs alone, in 1816, \$36,000,000, when they had only been estimated at \$25,000,000.

In conclusion, the committee submit to the House the following resolutions:

Resolved, That the policy of resorting to loans, for the support of Government in times of peace, is unwise and inexpedient.

Resolved, That this Government owes it to the people to take efficient measures for the redemption of the public debt.

Resolved, That the resources of this nation are such as to render unnecessary a resort to a system of internal, direct, and indirect taxation.

Resolved, That this Government ought to adopt such a system of retrenchment as will dispense with useless expenditures, and bring the pay and salaries of the officers of Government to what they were during the Administration of former Presidents.

Resolved, That the tariff ought to be new modified with a view to revenue.

The report was read through, and a motion being made to lay the same on the table and print it—

Mr. CAMBRELENG said he thought the merit of the report would justify the printing of an extraordinary number of copies; and he therefore moved that a thousand extra copies be printed. [Two thousand were moved for by another member.]

Mr. McDUFFIE said he did not know why an extraordinary number of copies of this report should be printed. It was, in the first place, a report made by a committee not authorized to make it. A committee is appointed to inquire

what expenditures of the Government are susceptible of a retrenchment; this committee transcends its power, goes into the business proper to the Committee of Ways and Means, presents to the House a report which is a tissue of fallacies; and now the House is asked to print two thousand extra copies of it. Mr. McD. professed that he could not understand this matter. Why is it that, at this time of the session, this report is brought in upon the House by a committee whose business it is not to undertake such an investigation? and why are extra copies of it to be printed? He said he would not now go into an examination with a view to show all the fallacies of the report; but he would show how the committee, in one item, overlooked a million of dollars. It was in this; that the committee had omitted all notice of a late report of the Secretary of the Treasury, in which he states that the revenue from imposts for the present year will be one million of dollars more than he had previously estimated it at. Mr. McD. trusted that, seeing the committee had transcended its authority, and misstated facts, the House would not consent to print the extra number of copies of the report as proposed.

Mr. HARDIN said he cared not how many copies of the report, nor whether any, were ordered to be printed. But the committee had not transcended its province, as charged upon it. The object for which this committee was raised was to inquire whether or not it was proper to retrench the expenditures of the Government. If so, what part of them, and how much, is to be retrenched? How can it be ascertained what retrenchment is necessary, unless a fair and impartial view be taken of the resources of the country—of the demands upon the Treasury, and of the sums properly chargeable upon it? These, it struck the committee, were necessary and preliminary inquiries. Whether any part of the report was false or not, Mr. H. would not say with the same positiveness as had been shown in the assertion of the gentleman from South Carolina; but, as one of the committee, he could say that the committee who made the report had anxiously labored to present a fair and impartial view of the revenue; and he had in his hand documents which, he believed, would prove every jot and tittle of that report. It was not stated in the report, he said, what the amount of debentures would be; but a view was taken of the amount of imports for successive years, and from which an inference was drawn that a considerable part of the excessive importations in 1821 was intended for re-exportation; and before this opinion was hazarded, an inquiry was made from the Secretary of the Treasury whether the debentures would exceed the calculation for the present year or not. To this the Secretary replied, that no certain answer could be given to the question, but that, without fear of contradiction, the committee might say that the amount of debentures would exceed what had been calculated. If any part of the report should be incorrect, Mr. H. said he should at all times be ready, and it would afford him pleasure, to correct it. But he held it to be the indispensable duty of this House to tell the

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nation how its finances stand. The fact is, said Mr. H., we have added to the national debt, since 1820, upwards of four millions of dollars; and, even with the aid of a loan of five millions, the deficiency of the revenue for the year 1821 will prove to have been about two millions of dollars, which must be charged upon the revenue for 1822. To refuse to print the number of copies of this report, as moved for, on the ground that the statements in the report are false, before any inquiry was made on that head, would be treating the committee with a disrespect and contempt which this House had thrown on no committee, though no other committee could have been more anxious to discharge faithfully the duties imposed on them; in doing which they had encountered great labor.

The question having been taken on laying the report on the table, as moved, and afterwards on printing the usual number of the report (one for each member, &c.) and agreed to, and the question recurring on printing an extra number—

Mr. VAN WYCK said, as this appeared to him to be as fair and candid an expose of the situation of our country as had been laid before Congress at the present session, he moved that five thousand extra copies be printed.

Mr. BALDWIN said it was very unusual to have a discussion of the merits of a report when first presented to the House, and he was surprised at the subject being now debated. This report, he said, had been drawn up with great pains, and no doubt according to the best judgment of the committee. It certainly contained a great deal of useful information, which ought to go forth to the people. Documents of this kind were little read or understood by being published in scraps in the newspapers of the country; and the money of the country was, he thought, well laid out that was spent in the circulation of documents like this. He was therefore in favor of the printing, &c.

Mr. McDUFFIE said he did not wish to be understood as being opposed to the printing of this report; because, until it was printed and fairly before the House, all its fallacies could not be exposed. But he was unwilling to print it for diffusion among the people, until it was examined and ascertained to be worthy of being so diffused. To show that it was not thus worthy, he referred to one particular feature in the estimate, contained in the report, of the ways and means for the current year. The gentleman stated that he had it from the Secretary of the Treasury, that the amount of the debentures will be increased for the next year. This, Mr. McD. said, was very extraordinary; for he himself had it from the Secretary of the Treasury, both verbally and in writing, that the revenue from imposts for the present year will exceed the estimate by a million of dollars. [Mr. HARDIN here briefly explained. Mr. McDUFFIE would have gone on further in debate, but the Speaker declared debate on the principle of the report not to be in order, on this incidental question.] Mr. McDUFFIE concluded by saying that, on this point at least, the report was directly in the face of the documents on the table, and of the oral statement of the Secretary of the Treasury.

Mr. COOK said he was decidedly opposed to printing an extraordinary number of this report. He thought that when a document of this sort was presented to this House for its special patronage, to go through the country in extraordinary numbers, the House should be satisfied that the report was such an one as to deserve its special approbation. He did not say whether this was such a report; but this he would say, that the doctrine in this report applicable to the Western country—that which applies to the policy of bringing the public lands into market, was one which the whole Western country would revolt at and reject. Mr. C. was going on, but was stopped by the Speaker in the range of his remarks.

Mr. WRIGHT opposed the publication of more than the usual number of copies of the report. He was not at this time prepared to decide on the merits of the report; but sure he was of this—that it was an improper mode of proceeding for committees, in reports to this House, to report to it the opinions of officers of this Government instead of their own. Such a practice would lead to collisions between this House and the departments, &c. On the general subject of retrenchment, Mr. W. said he was as much devoted as any one to such a reduction of expenses as was consistent with sound policy—that is, to a just economy, though he had no idea of parsimony being mistaken for it.

Mr. MITCHELL opposed the motion under consideration. Many members had not heard the whole of the report, as read. He confessed, for one, that he was not master of the principles of that report. He did not know that the policy therein proposed would be agreeable to the House or to the nation. If five thousand copies were ordered to be printed of it, the report would go forth as the act of the House. But it is not so; it is the report of a committee only, the principles of which are not so clear as to receive unanimous assent. He was not prepared to say whether this document was fallacious or not; he professed to know very little of it—and for that reason was opposed to printing more than the usual number of it.

Mr. GILMER asked whether gentlemen, in opposing the motion now before the House, acted in consistency with their own conduct on former occasions? Did not the House recollect that five thousand copies had been ordered to be printed of the late report of the Committee of Foreign Relations, as soon as it was made, and a like number of the report of the Committee of Commerce? The subject of the present report, he said, was one of equal importance; and the practice of the House, as far as he had observed it, had uniformly been to order papers to be printed when presented, and without the formality of a previous critical examination of their contents. The subject of the report, he said, is one which is to divide the politicians of this country; and he therefore wished the people, as well as the House, to have full information upon it.

Mr. COCKE and Mr. NELSON, of Virginia, both rose to address the House on the subject; but the

Speaker announced that the hour allotted for the consideration of original motions had expired; and the House proceeded to other business.

HORSES LOST IN SEMINOLE WAR.

The unfinished business of Saturday was resumed, (relative to the compensation for horses lost in the Seminole campaign,) and the question recurred, upon the motion of Mr. RICH, in relation to the proof of such loss that should be required.

After a few remarks by Mr. CANNON, in opposition to the amendment, the question was taken thereon and carried—yeas 67, nays 56.

Mr. GILMER moved a further amendment, the object of which was to extend the provisions of the bill to all persons other than the officers and volunteers of Tennessee.

Mr. JACKSON, of Virginia, proposed to amend the amendment, by further extending the provisions of the bill to the late war with Great Britain, as well as the Seminole war.

Mr. VANCE thought all the horses lost in the late war had been already paid for, and he was not disposed to have this bill trammelled by superfluous provisions.

Mr. JACKSON replied, that he thought the bill ought to be general and uniform in its operation, and, in point of fact, he believed there were horses lost at Fort Meigs, for which no indemnification had been made.

Mr. JACKSON'S amendment to the amendment was then negatived.

Mr. CANNON moved to strike out of Mr. GILMER'S amendment the words "impressment or," so as to limit the payment to such horses, &c., as had been obtained by the United States on contract.

Mr. McCoy was opposed to the amendment, and generally to the bill.

Mr. CANNON withdrew his amendment, and contended that the bill was not restricted to the citizens of Tennessee, but applied to all who had sustained loss of their horses in the Seminole war, without regard to their residence.

Mr. GILMER made a few remarks in support of his amendment, and Mr. TATNALL also expressed his sentiments in favor of its adoption; when the question was taken, and the amendment was negatived.

Mr. GILMER moved an amendment of the first section, the purport of which was so to modify the same as to confine the payment to the case of such horses as were killed in action, or were unavoidably abandoned and lost.

The amendment was opposed by Messrs. F. JONES, MOORE, of Alabama, and Mr. CANNON, and advocated by the mover and Mr. TATNALL; when the question was taken, and the motion negatived.

Mr. REID, of Georgia, moved to recommit the bill to the select committee that reported the same; with instructions so to amend it as to extend the provisions thereof to all persons, of whatever State, who lost horses in the Seminole campaign.

The motion was supported by Mr. REID, and opposed by Mr. F. JONES, and negatived.

Mr. CANNON moved an amendment so as to extend the bill to "cavalry and other persons" who lost horses, &c.—which motion was carried.

Mr. GILMER moved to amend the second section by extending the proposed indemnity to wagons and other carriages which were lost or destroyed in the Seminole campaign; but the amendment was lost.

The question then recurred upon ordering the bill to be engrossed for a third reading.

Mr. McCoy called for the yeas and nays, which were thereupon ordered.

Mr. CANNON and Mr. NELSON, of Virginia, made a few observations in favor of the bill, when

Mr. WHITMAN moved to strike out that part of the bill which proposes payment for such horses as escaped from the owner and were lost—on the ground that that was one of the ordinary risks that was covered by the *per diem* allowance. The question being taken thereon, it was carried.

Mr. REID made a few additional remarks, stating that he should vote for the bill, although he did not think it sufficiently broad to include all cases that justice required.

The question of engrossment was then taken by yeas and nays, and decided in the affirmative—yeas 89, nays 49, as follows:

YEAS—Messrs. Allen of Tennessee, Archer, Baldwin, Ball, Barber of Ohio, Baylies, Blackledge, Blair, Breckenridge, Brown, Buchanan, Cambreleng, Campbell of N. York, Cannon, Cassedy, Chambers, Cocke, Conner, Cook, Darlington, Durfee, Dwight, Eustis, Farrelly, Findlay, Floyd, Gist, Gorham, Gross, Hawks, Hemphill, Hendricks, Herrick, Hooks, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Leftwich, Long, McCarty, McNell, McSherry, Montgomery, Moore of Pennsylvania, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Virginia, New, Newton, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Poinsett, Rankin, Reed of Massachusetts, Reid of Georgia, Rhea, Rogers, Ross, Ruggles, Sanders, Sawyer, Scott, Sloan, Alexander Smyth, Spencer, Sterling of N. York, Stevenson, Tatnall, Thompson, Tod, Tucker of South Carolina, Vance, Van Rensselaer, Walker, Walworth, Warfield, Whitman, Woodcock, Woodson, and Worman—89.

NAYS—Messrs. Alexander, Allen of Massachusetts, Barber of Connecticut, Bateman, Bayly, Condict, Conkling, Crafts, Crudup, Cuthbert, Eddy, Edwards of Connecticut, Edwards of North Carolina, Fuller, Gilmer, Hall, Hardin, Hill, Hobart, Lathrop, Litchfield, Little, Lowndes, McCoy, McDuffie, Matson, Mattocks, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Virginia, Plumer of New Hampshire, Rich, Rochester, Russ, Arthur Smith, Sterling of Connecticut, Stoddard, Swan, Tucker of Virginia, Van Wyck, Whipple, White, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, Wood—49.

The bill was then ordered to be read a third time to-morrow.

Mr. BALDWIN moved that the resolution submitted by him in relation to the tariff be now taken into consideration; and the question being taken

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thereon, it was decided in the negative—ayes 58, noes 70.

MILITARY PEACE ESTABLISHMENT.

The House then resolved itself into a Committee of the whole on the state of the Union.

Mr. EUSTIS moved that the Committee take into consideration the bill in addition to the act to reduce and fix the Military Peace Establishment; which was agreed to—ayes 69.

Mr. TATNALL rose and remarked, that he was about moving to strike out (with the exception of the enacting clause,) the whole of the four first sections of the bill.* He had embraced these sections in this motion, as they were essentially blended together, and could only be fully considered by being taken up together. His object in moving to strike out these sections, was to test the sense of the Committee upon the bill. This bill, said Mr. T., which is now presented to the consideration of the Committee, has in view the most material alteration, nay, the almost total subversion of the present organization of the Army. I trust, sir, said Mr. T., that, notwithstanding the prejudices that have heretofore prevailed in this country against the regular Army, its well sustained reputation, and its vast importance during the late war, have made it, as it ought to be, an object of less suspicion and higher estimation. He hoped

* The sections are in the following words :

That, from and after the — day of — next, in lieu of one Major General with two aids-de-camp, two Brigadier Generals with one aid-de-camp each, one Adjutant General, two Inspectors General and one Surgeon General, there shall be one Brigadier General with one aid-de-camp, to be taken from the subalterns of the Army.

SEC. 2. *And be it further enacted*, That the Brigadier General, when not assigned to other duty, shall have charge of the office of orders and inspection, which shall be attached to the War Department; and that he be allowed, with the approbation of the Secretary of War, to detail, for temporary service in the same, so many officers of the line of the Army, as may be necessary for the discharge of the duties of that office; and, also, to detail one surgeon, or one assistant surgeon, for duty in the said office, and that an additional surgeon be appointed if necessary.

SEC. 3. *And be it further enacted*, That the requisite inspections in all the arms and departments of service, including the ordnance, shall be performed by field officers of regiments and corps, by districts, and in rotation, in order that the same officers shall not inspect the same post twice in succession: *Provided*, That commanders of regiments and corps, and the senior officer of all separate commands, as far as it may be found convenient, shall correspond with, and receive orders from, the Department of War, through the military inspection office attached to the same, excepting such parts of the Army as may be united in large bodies.

SEC. 4. *And be it further enacted*, That the Quartermaster General, after the — day of —, shall have the rank, pay, and emoluments, of a colonel, and that the offices of two quartermasters, with the rank, pay, and emoluments, of majors, be abolished after the said — day of —.

the Committee would bear with him, for a short time, whilst he endeavored to show the ill consequences that would inevitably follow the adoption of this part, at least, of the bill. He had had, as an officer of the regular Army, (to which he was attached during the war,) but little experience; but, little as it had been, it had enabled him to view this bill in a very different light from that in which the Military Committee had appeared to regard it. He claimed no power either to amuse or interest—he had no pretensions to oratory—he was a stranger to Parliamentary exhibition, but he trusted, as he had not been hitherto a frequent intruder upon the patience of members, he should now be indulged with their attention. He asked it not for *himself*, but for the *subject* that was now under their consideration. That subject was important, for, I confidently assert, said Mr. T., that, if you pass this bill, your Army will very soon become worthless and inefficient.

This might be much more properly called a bill for *disorganizing*, than a bill for *organizing* the Army. It is calculated, by the destruction of the staff, to make it a nest of idlers—a disgrace instead of an honor to the country. The professed object of the bill is not, indeed, to destroy the staff, but that will be its effect. Gentlemen may rely upon it, that will be its effect. He had, himself, no very serious apprehensions of the passage of the bill, provided the present military organization were fully understood, and provided the odious features of the bill were laid open to view. The honorable chairman himself, (Mr. EUSTIS,) who is the reputed father of the bill, he had some suspicion, was already considerably weaned from his first attachment to it, and began to feel very indifferent as to its passage.

The bill, sir, said Mr. T., contemplates the total destruction of the military part of the staff, and the striking off from the roll of the present Army, a Major General and a Brigadier General. It provides that the Brigadier General (when not otherwise employed,) shall discharge the duties of the Adjutant and Inspector's departments at the Seat of Government, where he will be permanently located, except when his *lineal* duties may call him away. It also reduces the rank of the Quartermaster General to that of Colonel, and strikes off the two Quartermasters authorized by the act of 1821.

Of the importance of the staff, there ought not to be a doubt. Upon it depends most vitally the character, good discipline, and efficiency of your Army. It was an anxiety with regard to this important, this essential branch of the Army, that had brought him out of a sick chamber on this occasion.

I will, however, said Mr. T., proceed at once to the subject. I will endeavor to show, if my strength will permit me, what the act of 1821 established in this particular—notice distinctly, though briefly, the respective duties of each of the members of the staff, and then present the objections to the alterations proposed in the present bill.

The departments of the staff, in which the bill contemplates alterations, are those of the Quarter-

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master General, Adjutant General, and Inspector General. First then, sir, as to the Quartermaster General's Department. On this part of the subject, Mr. T. said he would not dwell. The bill, as regards the Quartermaster General himself, had nothing in view but the reduction of his rank to that of Colonel. Mr. T. was aware of the importance of this department, but he candidly confessed, if the subject could have been under his consideration when the general organization took place, he should have expressed it as his opinion, that no rank should be given to this officer over the other members of the staff. He would not be understood to say any thing in the way of objection to the officer, who, at this time, fills that station. He was as gallant, as able, and as distinguished a young soldier as our country could boast of. He spoke of the *office*, and did not see any strong reasons for the precedence given to it over each of the other departments of the staff. Filled, however, as it is, and important and arduous as are its duties, he did not see any urgent reasons for the alteration proposed. On the subject of this department, he would not, however, detain the Committee, but leave it, and several other matters of detail in the bill, to those gentlemen whose strength would permit a more ample discussion.

He would now call the attention of the Committee to the Adjutant General's department. This department, said Mr. T., is of essential importance, and he would, therefore, beg the particular attention of the Committee to the few remarks he should make with regard to it. Such a department must be indispensably annexed to your Military Establishment. It is the key of the Army; all orders of a general nature are issued through it. It is through it that all the movements, all the dispositions of your forces, are effected. It is charged with the whole military correspondence of the Army. It is, in this respect, to the Commander-in-Chief, what the Secretary of State is to the Executive of the country. The various returns of the strength of the Army, comprised in reports from the numerous posts and cantonments occupied by the troops, are regularly and periodically made to this department. So, also, are all returns of courts martial and courts of inquiry. It is the important medium of communication between the Commander-in-Chief and the various members of the Army. It is in this department that the records of the Army are kept. In short, it is an essential feature in your military organization. So he trusted every member of the Committee would regard it. So, in fact, the chairman of the Military Committee, (Mr. EVERTS,) himself, was fain to acknowledge it, for he proposes to allot to this duty the highest officer that is suffered to survive the contemplated wreck of the present establishment. He allots to this duty the only Brigadier General proposed to be retained. In this respect, sir, the gentleman evinces the most palpable inconsistency. He plainly acknowledges the vast importance of this office, by attaching so high an officer to it, and yet he gives other duties to the Brigadier General, which belong to his character in line—duties which may, and proba-

bly would, occasionally, call him away for a length of time from the Seat of Government. The gentleman seems to be aware of the importance of this department, and yet he attempts to have its duties discharged by an amphibious being, that is neither entirely one thing nor the other—an officer "of the true mongrel breed."

Suppose, for instance, that this officer be called away to a distant point, upon a sudden emergency—suppose, for instance, to Detroit or to Pensacola—what is the consequence? Why, sir, your Army is without an Adjutant General, and that office is vacant which the gentleman deems the most important in the Army! I do not know, sir, whether it would be in order for me to state that the gentleman has suggested to me, in conversation, that the absence of the Adjutant General would not be sensibly felt, because his place would be sufficiently well supplied by the officers whom the bill authorizes him to detail from the Army, to assist in the duties of the department. Who, sir, are these officers alluded to, and why would they have been detailed? Why, sir, they would have been taken from the subalterns of the line, and their duty in the department would be that of clerks. Would they be deemed the persons who should be answerable for the correctness of the orders that may be issued? What information can they have reaped in this department? They would be better clerks, indeed, but perhaps worse officers; and all that they would have acquired would be to write better hands, and to stick the quills more gracefully behind their ears. The stool of the clerk is not the proper step to rank in your Army. The President of the United States and the Secretary of War might not be military men, and in nine cases out of ten would not be. In the absence of this officer, therefore, they would be completely hamstrung—they would not stir an inch—they would want an officer to advise with and give shape and effect to their plans. The present Secretary of War is certainly as able an officer; nay, sir, I will go further, for I am no approver of his political principles, and I will, therefore, be more scrupulous in giving him all that is due him—he is, perhaps, the most able officer that has presided over that department for many years. His talents and character seem to be peculiarly adapted to the situation; and yet, sir, he is, no doubt, entirely ignorant of the details of military matters. The fact is, sir, the Heads of our Departments are statesmen bred, and you would be as likely to find one of them able to manage a division of the Army, or to know the wants of that body, as he would be to work a ship-of-the-line, or know what she would require to be "well found;" and yet, the President of the United States, it will be recollected, is Commander-in-Chief of the Navy as well as the Army. No, sir; you cannot rely upon the military talents of your Heads of Departments. In ninety-nine cases out of a hundred, they would be found to be very similar to those who shed so bright a lustre upon the field of Bladensburg. This alteration, in short, sir, is totally inadmissible. You must have a military man of talents and experience con-

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stantly at the elbow of the Government. So much, sir, for the Adjutant's department.

I come now, sir, said Mr. T., to speak of the inspector's department. The duty of the inspector is *personally* to inquire, (I lay a stress, sir, upon this word, for therein consists the essence of the inquiry)—it is his duty to personally inquire into the state of the Army—to see whether its discipline, its police, its morality, its equipment, and its efficiency, be such as it ought to be—whether the officers are qualified both theoretically and practically for their stations, and whether they attend to their duties—whether the fortifications, arms, ammunition, and other public property, are properly taken care of, and whether the rules of the Army are strictly observed. In short, to save enumeration, said Mr. T., I would remark that the title explains what the duties would be. It is the most important member of the Staff, and without it, any army must soon sink in its character, and lose in its efficiency. Important, however, as it is, this bill meditates its destruction. In European armies this station is considered of the utmost importance, and, in our own country, it has also been so considered. General WASHINGTON always highly estimated it, and, at a late period of his life, the selection by him of General Hamilton (then Colonel Hamilton) to fill this station, and the rank given to him, (that of Major General,) shows its importance both in his view and that of Congress. The opinion, on such a subject, of this great patriot and experienced soldier, is, I trust, not undeserving of weight. I would here also add, said Mr. T., that the Inspector's reports are secret and his visits unexpected. His reports meet no eye except at the Seat of Government, whither they are regularly forwarded: and, consequently, his communications are free and unembarrassed. His visits, too, being unexpected, the officers at the various posts not knowing when to look for his presence, are constantly on the alert, and carefully attentive to every minute part of their duty. The Inspector is selected on account of his talents, military experience, and peculiar fitness for the office. Not having any connexion with the line, or with any corps of the Army, he has no partialities to bias his judgment, and being kept constantly on the wing, he neither forms such personal intimacies, nor contracts such personal prejudices, as would operate to discolor his opinions. Thus, sir, said Mr. T., I have endeavored to explain the duties and point out the peculiar character of this officer. I will now briefly state my objections to the alterations proposed by this bill. The bill proposes to do away with the inspecting officers, and to substitute, in their room, the field officers of regiments, i. e., the Colonels, Lieutenant-Colonels, and Majors—who are to discharge, in regular rotation, all the duties of inspection. This alteration, sir, will never answer. In the first place, it is not always that officers of the line are competent to the perfect discharge of this duty. Though possessed of all the science and information required, they may be deficient in other qualifications. They may want, for instance, the talent

of observation—may be naturally careless or negligent—may not possess the necessary scrutiny of character, or the disposition to pry deeply into every thing, and so forth. Besides, they are subject to improper bias, as they belong to the very corps, and form a component part of that very body, with regard to whom you would require them to report. If you wish to correct abuses, in your War Department, your Treasury Department, or your Post Office Department, would you select a man from the Department which is to be inspected, to examine into it and to report to you? I think not. Besides, sir, these officers are constantly in the habit of close association, and will they not necessarily either become partial to each other, or prejudiced against each other? And, in either case, can you rely implicitly upon their report of each other?

But, above all, sir, this bill would make the inferior the corrector of his superior. May not, then, the superior refrain, in some instances, from a proper severity to the inferior, when that inferior is soon to have the right of making a secret report of him? Your colonels and other officers would soon become courtiers of popularity, instead of exhibiting a proper independence.

That sternness in the discharge of duty, so essential in an army, would soon yield to a feeling of selfish policy. Such a feature in your organization would be odious indeed. Each officer would be turned into a spy upon his brother. It would, depend upon it, be making your officers a set of informers, (the vilest character that man can assume,) and would destroy all that fine, noble feeling—that frankness of manner, generosity of spirit—that sternness and fidelity in the discharge of every duty, social or public, that so distinctly mark the character of the "old soldier." It would make him suspicious where he would otherwise confide, and timid in the discharge of his duty, where he would otherwise be bold and inflexible. In short, sir, it would make him every thing but what a true soldier ought to be. No, sir, when you create your inspectors, let them have nothing to do with the line, and all things will go on well. The good order, morality, and efficiency of your army, will be preserved.

One glance at this bill will satisfy any man that its object is (at all events its effect will be) to destroy the staff. Destroy the staff, and bring in a bill then to destroy the Army, and I will give it my vote. Take away the staff, and your Army will soon become dissipated and worthless; the officers of it will have no watchful eye over them, and will abandon themselves to idleness and its concomitant vices. The very principle producing efficiency is coercion—the soldier, like the school-boy, (and we are all alike in this particular, where the discharge of duties is irksome,) requires the eye of authority constantly over him. In short, sir, destroy the staff and you destroy the very life and usefulness of the Army. The members of the staff are so many veins and arteries through which flow the very life-blood of the body; destroy these and the rest is a useless mass of limbs, which will soon become corrupt; or, if it be per-

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mitted me to make another comparison, the staff is the main-spring of the military machinery, and if you destroy that, all efficient operation ceases. The Army is, at this moment, more efficient and in higher order, both as to its police, its equipment, and its discipline, than it has perhaps ever been before. Whatever it be, however, it owes almost entirely to the staff.

Gentlemen are in the daily habit of complaining of the size of the present staff. They say "they have no idea of a large staff for a small army." Sir, we have not a "large staff," although we certainly have "a small army." Gentlemen fret themselves into a brain fever, and then imagine things to exist which have no existence whatever. Let us see where is this "large staff for a small army." And here, sir, said Mr. T., I speak of the staff, which is the object of the attack of these gentlemen.

I will first state the case as to the Adjutant's department. Under the organization which prevailed immediately previous to the adoption of the present system, there were two Major Generals and four Brigadier Generals, the former of whom had each an Adjutant General, with the same rank as the present Adjutant General, and the four latter of whom had each an Assistant Adjutant General with the rank of Major, making, when summed up, six field officers attached to this department, besides an Adjutant and Inspector General, with the rank of Brigadier General, permanently located at Washington. How many have we now? Why, sir, one, and but one, and his rank only that of Colonel.

Now, sir, as to the inspectors. How many had we under the old regulations? The same number as of adjutants, and with the same rank, viz: six, two with the rank of colonel, and four with the rank of major. How many have we now? Two. As few as it is possible to have for the discharge of the duties. Unless gentlemen can, by an act of Congress, give to one of them something of the ubiquity of the Deity, two are as few as can discharge the duties. The Committee will bear in mind that the visits of the Inspector are personal, and, when we have in view the immense tract of country over which the troops are spread, and that at the most distant posts there will always be more remissness in the discharge of duty, and less care in the preservation of public property, we must at once be satisfied of the absolute necessity of keeping in service at least two Inspectors. To sum up, then, the whole of the staff, under the former organization, (that is, the Adjutant's and Inspector's departments,) there will be found to have been thirteen, viz: one Brigadier General, four Colonels, and eight Majors. Now, under the present law for the same departments, there are three Colonels. And so much, sir, for the "large staff for a small army."

This, Mr. T. said, was as far in his remarks as he expected to have proceeded. His strength, he found, however, greater than he had anticipated, and he would proceed on with his observations on the bill.

The bill also proposes the reduction of the gen-

eral officers, so as to strike off one Major and one Brigadier General. As to the retaining of the Major General, I confess I am not particularly solicitous. He is by no means essential to the Army—that the Army could get along very well without him. He has, however, duties to perform, and his influence in keeping the Inspectors attentive to their duties is beneficially exercised. The only reason for striking him off is the saving which would be effected of the amount of his pay. His services during the war were distinguished, and perhaps as he is now a member of the Army, it may be as well to retain him. On this point, however, it is due to myself to say that I am by no means anxious.

With regard to the propriety and necessity of retaining the two Brigadier Generals, there ought not to be any hesitation in the committee. If you strike off your Major General, your plan should be to retain your Brigadier Generals, locating one of them in each of the two divisions of the country now marked off. You will then also attach the two Inspectors severally to each of these officers, under whose control their inspections will continue to be faithfully attended to. It is important that the country should have at least two military men, of high rank and experience, upon whom every reliance can be placed in case of emergency. Your country is extensive—its points of defence are various and widely apart. Is it not important that you should have an officer of well tried ability, who should be at hand in case of necessity on your Northwestern frontier? And will any one deny, in the present unsettled state of the late Spanish provinces bordering upon the Mississippi, and of the Spanish possessions in the West Indies, that it is highly necessary that there should be an officer of this rank in the southern division? Added to this, the present unsettled state of Europe would seem to demand some little attention from us. The bill contemplates retaining one Brigadier General; the only thing gained will, therefore, be in the personal expense of an officer of this grade, should you adopt this feature of the bill. The presence of these two officers, in their several divisions, will be of very great importance; they will have many and important duties to perform. Mr. T. said he hoped the Committee would decidedly reject this part of the bill, at least so much of it as embraced the curtailment of a Brigadier General.

I do not believe, sir, said Mr. T., that the honorable chairman of the Military Committee feels any hostility to the regular Army, or that he, in any manner, would wish to aim a blow that might effect its destruction. But I do believe, sir, this is the object of the majority of those gentlemen who form his auxiliaries on this occasion. They scout at its usefulness, notwithstanding the lessons which we received at the commencement of the late war, from the want of a well organized military. They say the militia are quite sufficient for all our purposes. Sir, said Mr. T., I am not disposed to detract from the merit of our militia; I think, with the gentlemen, that it is the grand military bulwark of the country, upon which we must principally rely. But, sir, it does not follow from

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this that we ought not to have a small proportion of regular force. It is a pity that gentlemen did not avail themselves of their Constitutional privilege, and employ themselves in organizing this militia, rather than to be constantly puzzling themselves with very sage plans to disorganize the regular Army. I have no prejudices against militia, and particularly such militia as our country can boast of. I believe them to be, under some circumstances, almost as efficient—nay, perhaps quite so, as regular troops, for instance, behind entrenchments; behind these an individual acts more independently—he is not so much bound to act in concert as in the field, where he necessarily loses his individuality. It is on this account that militia are so efficient in such situations, and not (according to the vulgar prejudice entertained by many in the regular Army) that their fears require their persons should be covered. Take them, however, into the field, where concert and union of action are essential, and where combination of movements, and all the intricacy of military science are required, and you cannot rely upon them against disciplined troops. Brave as they may be—nay, sir, brave as my countrymen are—they cannot, in such cases, be relied upon. They will tell you so themselves. To support this opinion, I need only to refer to the letters of General Washington, (and he, sir, must have had the highest opinion of the patriotism and bravery of his countrymen)—to those of General Greene, and of all the officers of that day, as well as to our officers during the late war. Preserve, then, your regular Army, and you retain the seeds of that discipline which, in case of a war, can easily be spread over your country. I mean not a large standing army. To that I have always been opposed; but preserve a body sufficiently large to furnish a basis for a larger army, should war or impending danger suddenly require its increase. Perhaps the present body is sufficiently large. I am willing to believe it to be so. In case of Congress deciding upon the sudden and large increase of the regular Army, it should at the same time determine (in order most speedily to produce discipline and efficiency in the newly created regiments) that the old regiments should be broken up, and the officers, non-commissioned officers, and privates, be separated from each other, and, in equal proportions, distributed among the new regiments. If such a plan had been pursued immediately upon raising the last War Establishment, its good effects would have been visible to every one. It is also important, I would remark, that, on your Peace Establishment, your proportion of officers to men should be much greater than upon a war footing. The object should be to retain as much science as possible.

There are some men who profess to be jealous of our regular Army. These apprehensions are idle. If its size did not of itself contradict all foundation for these, its character, and the materials of which it is composed would prove them trivial. It is composed of distinguished citizens, who are as much attached to their country and its institutions as we can be.

We are too apt to view this body of our coun-

trymen as forming a class distinct from the body of citizens. We are wrong in doing so. They will never forget that they are citizens, until we ourselves forget that they are so. Protect their rights as you would those of any other portion of your citizens; see that the old veteran who has spent his twenty years in your Army—who has, perhaps, bled freely in your service, but who, at least, has always done his duty—see that he is not “overslaughed,” and another suddenly popped over his head; see that his rights are not trampled upon by the tyrannical principle of any Department—suffer not promotions to be made from a clerk’s stool, or from any department not connected with the line; in short, sir, let that be done always which has been done this session; let their interests be guarded by the proper power, and your officers will never forget that they are Americans, and that they are the citizens of a free country, and not the liveried servants of any branch of our Government.

When Mr. T. took his seat—

Mr. POINSETT said, we ought to give to the Army, however small it may be, such an organization, and such a complement of commissioned officers, that in passing from the Peace to the War Establishment, the force may be sufficiently augmented, without adding new regiments or battalions, so as to raise the War on the Peace Establishment; instead of creating a new army with all its inexperience and want of discipline, and adding it to the old army, as was done at the commencement of the last war.

Though the company officers under the present Peace Establishment bear a large proportion to the rank and file, yet, from the organization of the respective branches of the general staff, no supernumeraries can be said to exist. The details made from captains and subalterns of the line, as assistant deputy quartermasters; acting assistant adjutant generals; assistant commissaries of subsistence; aids-de-camp; adjutants; assistant teachers of the Military Academy, and for ordnance and topographical service, leave at most of the posts not more than two, and with some companies not more than one officer for duty. So that in point of fact there are no supernumerary officers in the service.

It must not be supposed by gentlemen that the present arrangement of the Army requires a greater number of officers than the old organization. It requires only the same aggregate number of company officers; they are differently, and in my opinion much better employed. Formerly there were four officers to each infantry, and four to each artillery company, making eight to two companies; now there are but three to an infantry, and five to an artillery company, still making but eight to two companies. This distribution has been found best adapted to the nature of the service to be performed; particularly as the ordnance duties devolving on the artillery, require a greater number of officers to be attached to that arm. Besides, the artillery most commonly acts by detachments, and not in large bodies as infantry. The organization of companies on the present re-

duced scale, susceptible of rapid augmentation, is peculiarly adapted to the situation of this country, to the extended and exposed frontiers we have to protect, and especially to the multiplied posts on our maritime frontier, all requiring garrisons in peace as well as war. The companies in service bear a proper proportion to the posts to be occupied; consolidate the four regiments into two, by increasing the rank and file, but reducing the number of companies of artillery, and many important posts must either be evacuated or garrisoned by detachments of companies under the command of non-commissioned officers. The dividing of companies has always been found to produce the most injurious effects on the moral character, as well as on the military improvement of the officer and soldier, and ought to be avoided. The present organization of artillery companies at their minimum, form competent garrisons in time of peace, for the posts which should be occupied, while the same companies augmented to their maximum, to be effected by a simple operation, and aided by the neighboring militia, would be fully adequate to the defence of all the maritime posts.

As reduction of expenditure is the sole motive in support of the change proposed to be made, Mr. P. would observe, that no actual saving can be made by dismissing officers who are necessary to the system established. If the organization is disturbed, or if the means of transacting the business of the departments be taken away, the administration of the disbursing departments of the Army must be embarrassed, and a loss will be incurred much greater than the amount saved in the pay of officers dismissed.

The rank and file of the present Military Establishment amount to 5,642, a numerical force, above the most approved organization of armies, consisting of two brigades, and one division; consequently superior to the command of one major general, and two brigadier generals. The existing staff of the army does not bear its full proportion to the enlisted men in service, but with the rank and file has been organized at its minimum. Pass the bill on your table, reduce the staff, and it will soon be discovered that the rank and file are too numerous for the officers commanding, and we shall be called upon again to diminish the number of soldiers, and so on until the Army is entirely annihilated, and it would be better to do so at once than disorganize it, and render it inefficient. The present formation contains all the elements composing the Army. It is susceptible of being increased as emergencies may demand, without creating new corps, or new departments, by the simple operation of adding to the rank and file, and inferior grades of commissioned officers. The whole machinery of an army is preserved; the duties of each department are distinctly defined, and a regular chain of responsibility is enforced, from the soldier to the commander-in-chief. Each department of the general staff has its chief located at Washington, and is so organized that it may be enlarged or reduced in its inferior members to suit any circumstances. Under the present sys-

tem, in any emergency, orders from the Executive can be distributed through the proper channels, prompt measures adopted; the rank and file increased to the war standard; and the operations conducted under experienced commanders.

The present Military Establishment, but 6,183 aggregate, including the staff and engineer corps, may be increased by the proposed operation to 9,483, and by doubling the battalions of infantry, and adding to the company officers only, to 15,169 aggregate. In a very few months, therefore, after the proper orders were extended, the present army may be more than doubled in strength, disciplined, and prepared for active operations in the field.

Let me ask gentlemen to recollect what time and expense it required at the commencement of the last war, before we could raise such a force, and at what cost it was rendered equally efficient for operations against the enemy. And here let me remark, that respectable rank is as indispensable to the character and efficiency, as to the perfect organization of the Army. Talent and character cannot be commanded in any country without adequate compensation, and to the high-minded soldier, the simple wages of his profession can be no object. He is induced to serve by the rank and distinction to which he may aspire. Limit these prospects, or destroy them, as this bill contemplates, and talent and character must necessarily be driven from the military to other professions of life, where the prospects of distinction are more inviting.

This may appear a consideration of but little importance, and in time of peace it is so. But those who may be called upon themselves, or who may send forth their children to fight the battles of their country, ought to reflect before they drive from the service men of talent and experience. They ought to recollect that the talent and experience of an officer can be acquired only in the field, and at the cost of blood, and that the want of these qualities in those who command may expose their sons to useless slaughter, and their country to dishonor.

The second section of this bill degrades the Brigadier General to be retained to be the chief of the office of distribution and inspection, destroys the Adjutant General's department, leaving its duties to be performed by temporary details from the line, and assigns to the surgeon to be designated the important control now exercised by a Surgeon General, over the medical department of the Army.

The bill concedes the propriety and necessity of an office of distribution and inspection. It is clearly better, then, to retain the organization of the Adjutant General's department under competent officers, specially commissioned, than to impose its duties on officers irregularly and temporarily detailed for the purpose from the line.

This rotation in office must operate injuriously on the proper administration of any department; and the details must draw officers from their ordinary commands, equally important with the duties of the Adjutant General's office.

The organization of the regiments of the line preserves only the full complement of officers; and,

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if the staff officers of the Army are drawn from them, the number for important duty with their companies or commands, must be injuriously diminished. The detailing a surgeon to control the medical department, is equally defective. It would be impossible to procure an individual, with that inferior appointment, fully competent to discharge the important duties of the Surgeon General. The organization of the medical department, under a chief, at Washington, has operated greatly to its improvement; and if the superintendence, now exercised by competent talent, be removed or transferred to temporary details from surgeons, that department, so important to the efficiency of an army, must suffer.

The third section is, if possible, still more objectionable. It changes the system of inspectors, confining the duties exclusively to the field officers of regiments and corps.

The field officers of regiments have important duties to perform. They are responsible for the discipline, military improvement, and efficiency of their respective commands. They are the immediate inspectors of their respective regiments, and are bound to hold themselves and their commands always prepared for active operations in the field. They are responsible for the execution of all orders emanating from higher authority within their commands, and cannot be withdrawn from them for the performance of other duties, without interrupting the channel of communication and execution of orders. To constitute them Inspectors of the Army, as this section proposes, is incompatible with their more important duties, and the constant inspections by districts; and a rotation throughout the whole army would keep the field officers of regiments in constant motion, a greater part of their time absent from their respective commands, and distract their attention from the only objects to which it ought to be unceasingly directed, to the serious injury of the discipline, improvement, and efficiency of the whole Military Establishment. Besides, sir, from the esprit du corps which exists in every army, the field officers of regiments would constitute a body of prejudiced inspectors, each partial to their own commands. The most perfect inspections are made by a distinct and independent branch of the general staff; a system which has been approved and introduced into most of the European armies, and has been adopted in the American service with the most beneficial results. It is only by a distinct branch of officers, without any partialities for particular corps, that proper inspections can be made, and the actual condition of the Army, whether it respects the improvement of the personnel, or the quality and condition of the material, be faithfully presented to the Executive. Nothing contributes so effectually to the perfection of a military organization as a separation of the different departments of an army. Field officers of regiments should be answerable only for their discipline and improvement. Impartial inspections by a distinct competent branch of the general staff, can alone determine how far these duties are faithfully discharged.

The fourth section reduces the rank of the Quartermaster General, and dismisses the assistants; in short, disorganizes the whole department.

The rank of Brigadier General is not more than equal to the duties to be discharged and the responsibilities that devolve upon the Quartermaster General. Diminish the rank, and it would be impossible to command the talents, character, and experience, necessary for the chief of that department, which can only, in time of peace, receive such an organization as will prepare it for the operations of war. The only difference to be made in time of war in this, as in all the departments of the Army, ought to be, the increased number of the inferior members.

It is essential to the organization of every branch of the Army, that there should be a chain of communication between the chief and the inferior officers. By dismissing the assistants, who rank only as Majors, the very imperfect link now existing between the chief of the Quartermaster's department and his subordinate officers, is entirely destroyed.

It must be known to every one at all conversant with the subject, that this department requires a sort of talent not often to be met with; that a just system of economy can only be enforced by active and experienced officers; and that it requires no ordinary degree of foresight, prudence, and knowledge of mankind, to conduct with ability the heavy and varied expenditures of the Quartermaster's department; a department which, in addition to certain regular defined duties, acts on every emergency, which must be prepared to make good every deficiency, so as to perfect the whole military system.

Few officers, properly qualified for the discharge of the duties of Quartermaster, will encounter the responsibilities devolving upon Assistant Deputy Quartermaster, without the prospect of future advancement. That organization is imperfect, and must operate unfavorably on the public service, which does not form a school for talent and ability in the inferior grades to qualify themselves for the more distinguished and extensively useful stations.

The Quartermaster's department possesses, in some degree, such an organization. As vacancies occur, the Assistant Deputies may be made Assistant Quartermasters, with the rank of Majors, and from thence be promoted to be chiefs, if they are found to possess the requisite talent and ability.

The bill destroys that organization, reduces the chief to a Colonel, and confides the duties of that department to selections from the line, with no additional rank, and with very inadequate compensation for the responsibilities incurred.

The alleged motives for the changes proposed by this bill are—retrenchments in the expenditure of the Military Establishment. The amount to be saved by the provisions of the bill, are stated by the Paymaster General to be—

Reduction of the staff - - - \$22,207

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Difference in the infantry and other pay	- - - - -	1,476
Difference in ordnance pay and disbanded ordnance	- - - - -	13,692
Servants	- - - - -	42,379
Brevet pay	- - - - -	500
		<u>\$80,254</u>

The actual saving by the reduction of the general staff is but \$22,207; and for this sum the whole military organization is to be disturbed, and the Peace Establishment rendered inefficient for the objects for which alone it ought to be maintained. The amount deducted from the pay of staff officers, so as to equalize it with that of the infantry, is too inconsiderable to authorize a change so unjust. Their duties expose them to increased expenses.

The pitiful sum of \$500, proposed to be saved by reducing the brevet pay, ought never to have been mentioned in this bill. That pay was won gallantly in the field, and ought not lightly to be taken away from the brave men who now receive it.

The amount proposed to be saved by the ninth section is, in fact, merely a reduction in the number of rank and file in service. I have, however, no objection to it.

The amount to be saved by dismissing the ordnance men is conjectural. In my opinion that measure will augment the expense of that branch of the service. Hired labor must be resorted to at an increased cost; but, as that subject is now before the committee we shall not dwell upon it.

The present staff and officers of the Army are, as I have before observed, organized at the minimum, and ought rather to be increased than diminished. I am in favor of a numerous staff, and of maintaining, in time of peace, more officers than are absolutely requisite for the duties of their respective commands, with a view to the organization of a more numerous army in time of war. I am aware that military writers were divided on this question. I say *were*, for all modern writers, since the art has been perfected, are united in favor of maintaining constantly what the French technically call *frames* of an army—what we call the *skeleton* of an army.

Of all the elements that compose an army, the soldier is the only one that can be created in a short time. It is mere technical knowledge he requires, and that very limited. The instruction necessary to form an officer is totally different. It requires not only time and application, but experience, which is to be gained only in the field.

It is hardly necessary to recall to the recollection of gentlemen in this Hall, the disasters and disgrace which attended our arms at the commencement of the last war. They are to be traced to the want of organization of the Army—to that defective system to which gentlemen wish to bring us back—and to the inexperience of our officers. The glorious manner of its termination can be attributed only to the talent and experience of our

commanders, acquired at the cost of so much blood and treasure.

A striking illustration of what I have advanced may be drawn from the history of the wars that grew out of the French revolution. At the commencement of the revolution, the emigration of the nobility had left the French army almost without officers, the strong excitement of that moment armed thousands in the cause of their country, the citizens of the new republic flocked in crowds to defend the frontiers. Numbers and enthusiasm made up for the want of talent and experience in the commanders. They repelled the invaders, but with an immense loss of men when compared with that of the disciplined bands opposed to them, a loss almost incredible.

In the midst of this scene of carnage, and after two years of war, such men as Pichegru, Moreau, Kleber, and others, were distinguished from the crowd; but their military education was formed at the expense of torrents of blood. About this period the army of the Republic, exhausted by the immense losses they had suffered, required to be recruited; but the citizens, discouraged by the prodigal waste of life, resorted to by inexperienced officers, as the only means in their power to repel the enemy, refused to march to the frontier. Government was compelled to resort to a requisition, and the conscription grew out of these causes.

The advantages of a well-organized staff, and of possessing the frames of an army, are illustrated in an equally striking manner by those wars.

After the destruction of the great French army in Russia, and after the retreat from Moscow, it was reduced to 25,000 men, which took a position behind the Saal. But France possessed a number of experienced officers of every grade, and a well organized staff. In less than six months a new army of 150,000 men was formed of young soldiers, but commanded by experienced officers. This army of recruits was marched into Germany—was arrayed against the veteran bands of Russia and Prussia, flushed, as they were, with victory—beat them at Lutten, at Bautzen, and at Wurtzen—took up their position on the Oder, and obliged the enemy to conclude an armistice.

These examples ought to warn us of the dangers to which a country is exposed by a defective organization of the military establishment, and convince us of the advantages to be derived from its perfect organization and from a well appointed staff.

If then, this bill be calculated, as I think I have proved, to destroy the organization of the Army—to make it unfit for the only object for which it ought to be maintained—to render it inefficient in time of war, and in that event to involve us again in all the disasters and difficulties attendant on a defective system, I hope the Committee will unhesitatingly reject it.

Mr. STERLING, of New York, rose and remarked, that he had paused, in expectation that some of the friends of the bill would come forward to defend it. But he had waited in vain, and he felt it a duty incumbent upon him to express his sentiments on the subject. He could not agree with

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the gentleman from Georgia, (Mr. TATNALL,) that there existed in this country against the Army a general prejudice. The assertion operated as a libel on the people of this nation. He could not believe it possible that they were so lost to gratitude, and the best feelings of the human heart, as to look with an averted eye upon the heroes that defended them in the hour of peril. If there ever was a set of men who deserved the good will and lasting regard of their countrymen, it was the remnant of the Army that has survived the cold and calculating policy that has assailed them. They are covered with honorable scars, and however little their worth may be valued by some, it is a mistaken idea that it is not appreciated by the nation. The question at present is, not whether we shall disband the Army, but whether we shall cut off the heads of that army. It is not whether we shall introduce a graduated system of reduction, but whether we shall lop off the limbs which give it life and energy. And for what? To save a little money. I, too, said Mr. S., am in favor of saving money, but not at the expense of the safety and independence of my country. I, too, am in favor of reform, but it is that reform which builds up, not that which prostrates and destroys. Mr. S. was opposed to the bill, because it introduced into our system, and indicated in our Government, a fluctuating, and, of course, a pernicious policy. What had been the course of our policy in relation to this subject? After the war it was necessary to reduce, and a salutary reduction was made, to ten thousand men. The force thus retained was respectable and efficient—it was popular. We had not then forgotten their services, or the safety of our country. But soon the sufferings and alarm we had endured faded from our recollection. Danger receded, and the tone of the country relaxed. In 1816, it was deemed expedient to reorganize the staff of the Army—it was reduced. In 1818, a further amputation took place. The danger still receding, and the solitudes of the past being less fresh in the mind, some began to think the Army unpopular; and hence, in 1821, it was again reduced. After all these ordeals, the nation did believe that the Army might rest, for a while at least. Those gallant officers who were still retained, and who had not yet been compelled to seek for employment in the departments of civil life, had reason to expect that they would not be disturbed. But what do we find? Not twelve months had elapsed, before this little band was attacked by resolution after resolution on your table. Mr. S. would by no means doubt the correctness of the motives that had led to their introduction; but he did not believe that such were the temper and feeling of the nation. He did not believe they were in favor of that fluctuating and unsettled policy which builds up one day, and tears down the next—which begins in folly and ends in weakness. It was a policy at war with every sound maxim of legislation, and with all those wholesome rules of government which teach us to confirm its strength by placing it on the most firm and substantial basis. It was ruinous to the Army, and subversive of all discipline, and opposed to

all correct and economical administration. It shows a fickleness and instability in Congress, injurious to its character, and destructive of the confidence of the nation. It destroys all stability and permanency in your Military Establishment. No system of defence can be a good one, unless it is bottomed upon a stable and permanent basis. This wavering policy is destructive to military science, disheartening to all military pride and ambition, and is calculated to drive from your Army the best talents and the most useful acquisitions. It savors of persecution and injustice towards those who have fought and bled for the country, and who merit a better fate than is held out to them by these persevering and repeated attempts to shift them off, and throw them upon the world, unfitted by habit to mingle in its toils, and gain a support by its occupations.

But he (Mr. S.) had another objection to this bill. It was presented too early. The period since the last reduction was too short to have fairly tested the experiment, or proved the policy of the old system or of the new. Even the principles of the last reduction were not yet settled, as was well known and fully understood. And still we are again called on to apply the pruning knife, and thrust these men, who have fought our battles, into private life. Is it right in respect to them? Mr. S. contended it was unjust, ungrateful, and oppressive, and he would express the views on which that sentiment was founded. It was unjust, because they will have been deceived should this bill pass. The very title of the act was "An act to reduce and fix the Military Peace Establishment"—not an act to reduce and unfix it; to set it in motion and to render it uncertain. It was not, indeed, a contract—but it held out good reasons to expect that the establishment was fixed upon a basis as permanent as peace. If this kind of policy then was unjust, it was also ungrateful. Mr. S. was aware, he observed, that it was contended by some, that the principles of gratitude had nothing to do with the policy of Government. To this doctrine, said Mr. S., I cannot assent. Gratitude is not only a correct and noble feeling, but was consistent with the soundest policy, of which this country had set the most splendid examples. If there are any of the corps of officers you purpose to disband, and such there are, whose blood flowed to secure and save your country, is he not entitled to your gratitude? And what but that principle has induced you to pay the pensioners of the Revolutionary war? Rome and Greece raised monuments to their departed heroes, and will you not do justice to the living? Shall we bear, and justly bear, the scorn and sneer of princes and despots, who reproach republics with ingratitude? This wavering policy operates oppressively upon the officers proposed to be reduced—and upon one of my constituents (said Mr. S.) upon the commander-in-chief, it bears with a heavy hand. It aims at him a severe and undeserved blow. His situation is peculiar, and demands from his country, not a cold and unfeeling course of policy, but its sympathy and consolation. The hand of affliction is now upon him. The

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God of Heaven has seen fit to visit him with a calamity severe and dreadful. And is this the moment for his country to forsake him? Whence has this affliction befallen him? Under Providence, it has originated from his exposures, his sufferings, and his toils, on the Niagara frontier. He there took a disorder which never left him until a more dreadful one set in. In the midst of this affliction, and when health and hope begin to open upon him—when just recovering from the almost fatal stroke, shall he be abandoned, and stripped of honors acquired by his blood, and of emoluments richly earned by the greatest personal and pecuniary sacrifices? I say pecuniary, said Mr. S., as well as personal—for true it is, that, devoting himself to his country and his profession, his private affairs were confided to other hands, and the result is deep and heavy embarrassment. Yes, sir, a handsome estate is deeply encumbered, and the effect of your policy may be to strip from him the remnant of his savings from a life of toil, of enterprise, and the most persevering industry.

Mr. S. was opposed to the bill therefore, because he contended it was impolitic to destroy the office of Major General. That officer was a constituent of the present system, and cannot be removed without deranging and injuring its organization. Our Army, said Mr. S., affords a command equal to that of a Major General, and our forces being scattered throughout numerous posts, strengthens, instead of weakening the argument to retain him. In point of economy, we should lose by abolishing this office. The occasional inspection of an officer of such a grade, so nearly connected with the Government, and to whom the whole Army will look up, will have a powerful influence to preserve discipline, order, and economy, in money and in property. It will save more than the extra expense of the office. If our Army was to be organized on military principles, he contended that this office was essential to its correct regulation and discipline. It was impossible for the Secretary of War to be familiar with all the minutiae and details of the Army. By this officer he can be aided in the most effectual and useful manner, and freed from an intolerable burden, which is inconvenient, if not incompatible with the discharge of his other numerous and pressing duties. But this is not all. Your Secretary of War often changes. This deranges and confuses the whole system, unless you have an officer of high grade upon a permanent footing, acquainted with the details of the Army, and responsible for them. This office was also a just reward for high and distinguished services. It excites emulation, and ambition, and gives to the aspirant for military fame something to fix his eye, and stimulate his zeal. It makes the Army more respectable, and adds to the character and dignity of the nation. For these and other reasons, Mr. S. hoped that officer would be retained.

He would not dwell long upon the expediency of disbanding the other officers, as proposed by the bill. That subject had been so fully discussed by the gentlemen who had preceded him, (Messrs. TATNALL and POINSETT,) that he would forbear

to comment particularly upon them. He briefly reviewed the duties, &c., of the adjutant, surgeon, and inspectors general, and he thought it unwise to legislate out of office men of such distinguished talents and services, without very strong and palpable reasons. In respect to the latter, it was an office as old as the Government, and the substitute proposed was, in his opinion, extremely faulty. It was an office of detail and minutiae, and required great skill and attention. Two were necessary on account of the posts being so scattered, and the difference between the inspection of infantry and artillery. These inspectors, he observed, travel from one part of the Union to the other, and make to the Government very valuable reports, but the mode of inspecting by field officers was peculiarly improper. They were interested to conceal all the defects in their own regiments, and collusion might easily take place. And would they, he asked, report their own faults and errors? Besides, if they inspect any regiments but their own, they must necessarily leave the latter destitute. If the object is to dispense with the department, then abolish them and save their salaries, and not transfer them where the duties cannot and will not be performed. Mr. S. presented a variety of other considerations with respect to this subject, and thought that the adoption of the proposed plan would go far to ruin the Army. With respect to the office of surgeon general, the object was to save \$1,800; and what would be the probable result? You destroy the best arranged part of the Army. You introduce disorder, waste, and confusion, in the place of system and economy. There was no department better organized, or in finer condition, or which has been more fortunate in its results than this. By a renovation of the system, there has been a reduction made in the expenditure, from about seven to three dollars per man. And how has this been accomplished? By introducing system, and order, and responsibility. The Surgeon General is the efficient head of the department. He has now the sole responsibility of purchasing and distributing the medical stores. He knows all the posts where the troops are stationed—the climates, the diseases, and the wants. He can tell whether the medicines are suitable for this or that post; the proper quantity and quality; and, with his extensive knowledge of the country and market, can purchase at the lowest prices and at the most suitable places. He is responsible for the whole, and hence the great reduction of expenditure. And shall we now go back to what is essentially the old and wasteful system? Under that, the surgeons of each post made their requisitions for medical stores at their discretion, and the commissary general of purchases directed the supply accordingly. Here was room for waste, and ignorance, and fraud, and by the bill the responsibility will be divided, which must necessarily lead to similar results. Under the present system there had been no defalcations, no lost vouchers. The surgeon general and commissary general have no money, but it goes directly from the Treasury into the hands of those of whom the purchases were made. Mr. S. was opposed to the bill be-

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cause the present organization is the best adapted to keep up a rigid system of responsibility. Each department of the Army terminates in a head responsible for its correct administration. This is as it should be, as it keeps up a system of responsibility, attended with the most beneficial results. In no other way can you establish an efficient and well organized system. It is more perfect than any heretofore organized. In case of war, all would move with harmony and vigor, each man would know his station, be responsible before the people for the correct discharge of his duty, and all that waste of money and destruction of property which took place during the late war, would be avoided.

Mr. S. was opposed to the reduction, because he believed the present system was the most economical, and more so than any other which could be devised.

The whole object is to save money. If the present, therefore, is a money-saving system, more so than the one proposed, the change must be inexpedient. The amount to be saved is the emoluments of the officers reduced; but if, in doing this, you derange the whole system, you hazard the loss of more than you save. The great object in any system is, by proper checks, to prevent the loss of money and the waste of property. No system can be so good as that which makes an efficient head responsible for the errors and the waste of his department. Some one known, prominent, responsible officer, should be at the head of each department, and remain accountable to the Executive and to the people for the money disbursed in that department. This is the excellence of the present system, and its results have been admirable. Before it was established all was disorder, waste, and confusion; since, the greatest order, the most rigid economy, and the strictest responsibility, are preserved. Your records give you the results, which afford a most powerful and conclusive argument in favor of the present system. The proof is clear, the effects palpable, and the causes are as obvious as the results are astonishing. The law organizing the general staff, agreeably to its present formation, did not take effect until April, 1818, and could not be matured before the close of the year 1819. Since then the expenses of the Army have been reduced to an extent and with a rapidity truly surprising.

This shows the reduction per man :

<i>Cost per man.</i>		<i>Reduction.</i>
\$451 00 for the year 1818		
434 70	1819	\$16 87
315 88	1820	135 69
287 02	1821	164 55
299 46	1822	153 11

The proportion of officers to the men in 1822 being greater than before, prevents the result of that year from being as favorable as prior to that time.

Again : the whole expenses of the Army since eighteen hundred and eighteen have decreased as follows, viz :

1818	\$3,072,495 04	No. of Army	8,199
1819	3,663,735 16		8,428
1820	3,061,884 00		9,693
1821	2,327,552 13		8,109
1822	1,929,179 91		6,442

Adding a fair amount for the difference in the price of provisions, viz : from 40 to 39½ per centum in the price of provisions, and in that of clothing and medical stores from 7 to 8½ per centum.

Again: In 1818 the Army was 8,199 strong, and cost \$3,702,495 04.

Now, for the same force and at the same rate of expenditure, the cost would have been, after making allowance for difference in prices, viz :

For 1819	-	-	-	\$3,564,105 30
1820	-	-	-	2,589,900 12
1821	-	-	-	2,353,270 98
1822	-	-	-	2,455,272 51

Which shows a saving upon this estimate for 1819 of \$138,389 74, by difference of administration.

1820	-	-	-	\$1,112,594 92
1821	-	-	-	1,349,218 06
1822	-	-	-	1,247,222 50

And how has all this been accomplished? By the plain and simple principle of giving every department an efficient and responsible head. By the rigid control which this has given to the disbursements of public money; by the preservation of public property; and by the prompt rendition and settlement of the accounts of disbursing officers. As an evidence of the practical result of the system, it may be stated as a fact, that, in the year ending the 1st of June last, there were ninety-one disbursing officers in the department of the Commissary of Subsistence, and seventy-one contracts, and all the accounts were settled, except to the amount of \$5,405. Other departments are equally prompt. The difference in the expense of the Subsistence department alone, under the old and new system, for the last year, was \$323,489 04.

In old	-	-	-	-	\$800,377 72
new	-	-	-	-	476,888 68

Difference - - - - \$323,489 04

Such are the results of that enlightened system of economy which pervades the present organization and administration of your Army. It is in this point of view, so all-important, that the present system manifests itself to the greatest advantage. It is this system, so well organized, so admirably arranged, and productive of such immense savings, that is now proposed to be disorganized. Mr. S. was also opposed to the bill, because he regarded it as a departure, not only from the true principles of economy, but because the present was the best system for a Peace Establishment. It would enable the Government to pass from peace to war with the least danger, the least expense, and with an efficient and powerful force. In a very short period a well organized army could be prepared for the field. You have only to fill up the ranks of companies, battalions, and regiments, and you are ready for action, under

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able, skilful, and experienced commanders. It gives you all the advantages of a large army in time of peace, without its danger or expense. The operation of the present organization of the Army, in a pecuniary point of view, shows the excellence and the power of the right kind of economy—that which is founded in justice and regulated by principle—that which does not lose a pound while looking at a penny. True, genuine economy is a great political virtue, and the statesman who does not possess it is unworthy of confidence; but there is a sound and enlightened system of economy, which ought never to be confounded with a false, niggardly, and short-sighted parsimony. False economy is regardless of consequences. It looks not to results, and takes no broad and extended view of things. It saves by destroying—breaks down a system to day to save money, and is obliged to build it up again to-morrow with infinite loss, and waste, and extravagance. It robs the individual to replenish the Treasury—withholds money, because it has the power—scrutinizes little matters, and overlooks great ones; is without order, system, or principle, and is as much at war with private right as with permanent public good. But sound economy consists in supporting the necessary establishments of the nation with the least possible expense—in calling every man to a rigid and prompt account for every dollar of the public money—in putting a stop to any useless expenditure—in keeping up a thorough system of responsibility, and in detecting and punishing public defaulters. Such, said Mr. S., is the economy of the present system, and such had been its operation. But there were other considerations that should induce a rejection of this bill. Were it even meritorious in itself, yet the time in which it is brought forward is unpropitious. By a public act, almost unanimous, we had recognised the independence of the late Spanish provinces in South America. The results of that recognition could not be foreseen. It was assuming an attitude that might lead to a war. The Holy Alliance will look with an evil eye upon free America. Instead, then, of crippling our military power at this time, he thought we should make liberal appropriations to sustain and invigorate our Army and Navy, so as to be prepared for the worst consequences, at the same time we hope for the best.

When Mr. S. had concluded—

Mr. EUSTIS (chairman of the Military Committee) explained the views which had induced them to report the bill. The position, however, of the reporter, and other causes, precluded him from hearing his remarks distinctly, and, of course, an imperfect report only can be made or expected. He was understood to say that he was not disposed to urge the bill on the House; but, having reported it, it became his duty to explain and defend it. The real objections to which it was liable were those which had been urged by the gentleman from Georgia, (Mr. TATNALL,) and the gentleman from South Carolina, (Mr. POINSETT,) and if what had been said was true, that it went to destroy the staff of the Army without providing a substitute, he would agree that it ought to be re-

jected. Mr. E. then adverted to the subject in detail to show that the objection was not well founded. He would agree that the office of Adjutant General was indispensable, both as an office of the military records, to issue orders and to receive the returns. But he contended that the transfer which the bill contemplated was beneficial to the service. With respect to abolishing the office of Inspector General, he would go further than even the gentlemen were disposed in asserting its importance. It was indispensably necessary. And how were the duties of it to be performed? By detailing from the field officers of the Army to do that duty. But gentlemen contended that it should be done by a separate and distinct branch, and that officers detached for that duty from the line of the Army would be partial to their own corps. Had gentlemen adverted to the circumstances of the Revolutionary war? It had been stated that the Inspector General had the rank of Major General. Did they recollect the case of the Baron Steuben, who was not only the Inspector General, but a Major General, commanding a division? It was a well known fact, that, instead of relaxing, and being partial to his own command, he was more rigid with them, if possible, than with any others. They feared his eye more than that of any other inspector, and he was extremely vigilant to see that his command appeared as well at least as that of any in the Army. But it was objected that the officers would inspect their own regiments. With the exception, however, of those stationed at the Council Bluffs, near Pensacola, and at Sackett's Harbor, he believed there was no whole regiment at any one point in the country; and he apprehended no danger from any partiality the officers might feel towards their own commands—but on the contrary, believed, so far as it could have any influence, it would be an incitement to a more vigilant scrutiny. It was also objected that the officers would seek for popularity. He would grant it; but it was a popularity, he contended, that would consist in endeavors to please their superior officer, by making rigid inspections and faithful returns. It was also contended that this extra duty would take the field officers away from their proper duties; perhaps they would leave behind them as good officers as themselves. Mr. E. observed, that he wished to retain the Inspector General. He regarded his worth, his valor, and his intelligence; but they could not save every valuable officer, nor legislate for particular men. It was well known that there were many field officers from whom a selection might be made, with perfect convenience, and without the least detriment to the service, who were eminently qualified for this duty. With respect, also, to the talents and services of the Surgeon General, he fully agreed to all that had been said in his favor. But, if individual worth was to retain any man, there would be no reduction at all. The object, in this instance, was to detail a surgeon for the duty, and to save the expense of a separate bureau. The bill contained a provision for the Surgeon General, in a more subordinate station,

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indeed, but he hoped that gentleman would be disposed to accept it, when Congress thought proper to reduce the establishment. Mr. E. would admit that he did not think the calculation of saving was a primary object. He would agree that the staff of the Army was its main-spring and life, and he would not contribute to destroy a valuable department of it for twice the expense which it cost to maintain it; but could neither agree that the proposed reduction would injure the service, nor that it would not make a saving of money. With respect to the Quartermaster General, he would agree that, for an army of 6,000 men, he thought the rank of Colonel was as high as its extent would justify. He made honorable mention of the virtues and talents of that officer. The gentleman from New York, (Mr. STERLING,) had alluded to the gallant services of the Commander-in-Chief as a reason for retaining him. Mr. E. appreciated fully the services of that distinguished officer; but he contended, as a general principle, that neither the spirit of our country, nor the genius of our Government, would authorize the retaining of officers when their services were no longer wanted. Such were the views, and such was the practice of Washington. The gentleman from South Carolina (Mr. POINSETT) has objected to abolishing the additional pay annexed to rank by brevet. Mr. E. contended, however, as a matter of principle, that no officer, in time of peace, should receive additional compensation on that account. The present Brigadiers, it appeared, from documents on the table, were decided, by the Attorney General, to be entitled to the pay of Major Generals. But was such the intention of the law? Brevet officers were entitled to the distinction of their rank, but not to the pay of that rank. In respect to the alteration contemplated in the Inspection department, it had been further objected that the field officers would be taken temporarily and irregularly from the line. This he did not think could be the case; it could be done, and the officers would have to travel but little distance, whereas the Inspector General has to traverse a vast extent of country. Mr. E. believed that the present Inspector General could never be exceeded in the performance of his duty. He had only risen, however, to answer the objections that had been urged; and, should the bill be rejected, there was no one whom it would disturb less than himself. He would only add his belief, that, by the provisions contained in the bill, the command of the Army would be brought within a smaller compass, and under the more immediate inspection of the Secretary of War; and that, instead of the present circuitous course, all orders, returns, inspections, and informations, would pass in a direct line between the head to the most remote branches of service.

Mr. BASSET asked for a division of the question, so as to have each section put separately.

Mr. WOODCOCK announced his intention, should the House refuse to strike out the first section, hereafter to propose some amendments thereto; when Mr. COCKE expressed a wish to make known his sentiments on the subject, and, the hour being

late, he moved that the Committee rise and report progress; which was agreed to, and the House adjourned.

TUESDAY, April 16.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act supplementary to an act, entitled 'An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive,'" reported the same without amendment, and it was ordered to be read a third time on Friday next.

The House resumed the consideration of the motion made and depending yesterday, viz. that five thousand additional copies of the report of the committee appointed to inquire whether any part of the public expenditures can be retrenched without detriment to the public service, &c. be printed for the use of the members of the House; when it was, on motion of Mr. COOK, ordered that the said motion lie on the table—ayes 62, noes 43.

Mr. BUTLER moved that the House do come to the following resolution viz:

Resolved, That the Committee on Manufactures be instructed to report such evidence or estimates as may be in their power, showing the annual amount and cost of the raw material consumed in any one or more branches of manufacture, the number of persons employed, the amount of wages paid, the amount of capital invested in, and the amount of the articles annually manufactured, and their market value.

The resolution being read, the question was taken, Will the House agree thereto? and was determined in the negative.

Ordered, That the Committee of the whole House to which is committed the joint resolution providing further security in the transmission of the public mails be discharged from the consideration thereof.

The House proceeded to consider the report of the Committee on Military Affairs made on the 2d instant, in relation to the execution of the act of the 2d of March, 1821, to reduce and fix the Military Peace Establishment of the United States: whereupon, it was ordered that the said report be committed to the Committee of the whole House on the state of the Union.

The Committee of the Whole were discharged from the further consideration of the joint resolution in relation to the use of Imlay's new invented patent for the security of the mail, and the same being laid on the table—

Mr. BATEMAN moved two amendments, the one to make it imperative upon, instead of discretionary with the Postmaster General to obtain and use the said improvement; and the other striking out the direction to pay the expense from the contingent funds of the Post Office Department; which were respectively adopted, and the resolution was ordered to be engrossed for a third reading.

Mr. PATTERSON called for the consideration of the resolution, by him submitted some weeks since, making it the duty of the respective Departments, at the commencement of the next ses-

sion, to report to this House whether any of the officers of the same are inefficient or can be dispensed with, &c.

The House agreed to consider the same.

Mr. RICH moved to lay the resolution on the table; which was lost—ayes 45, noes 56.

A verbal modification, suggested by Mr. FULLER, was agreed to; and, after remarks thereon by Mr. WALWORTH, Mr. COCKE, Mr. WRIGHT, Mr. PATTERSON, Mr. MALLARY, and Mr. CONDUCT, the question was taken, and the resolution was agreed to.

On the motion of Mr. SCOTT, the House took into consideration a bill from the Senate concerning the location of certain lands in the State of Missouri. A discussion ensued upon ordering the bill to be engrossed for a third reading; the bill being supported by Mr. SCOTT and Mr. RANKIN, and opposed by Mr. COCKE and Mr. MCCOY; and, the question being taken, the engrossment was ordered—ayes 74. So the bill is to be read a third time.

On motion of Mr. ALLEN, of Massachusetts, the House agreed to consider a bill from the Senate, supplementary to an act for the relief of purchasers of public lands prior to the first day of July, 1820; and, after a few remarks by Mr. RANKIN, explanatory of the necessity for the bill, and by Mr. MCCOY on the same side, the bill was read a third time, passed, and returned to the Senate.

An engrossed bill for the relief of the officers, volunteers, and other persons engaged in the Seminole campaign, was read a third time and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act for the relief of the representatives of John Donnelson, Thomas Carr, and others;" "An act to authorize the building of light-houses therein mentioned, and for other purposes;" "An act to repeal the fourteenth section of 'An act to reduce and fix the Military Peace Establishment,' passed the 2d day of March, 1821;" "An act to authorize and empower the corporation of the city of Washington, in the District of Columbia, to drain the low grounds on and near the public reservations, and to improve and ornament certain parts of such reservations;" and "An act for the relief of the legal representatives of Greenbury H. Murphy;" in which bills they ask the concurrence of the House.

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The House then resolved itself into a Committee of the Whole on the state of the Union on the bill in addition to the act, entitled "An act to reduce and fix the Military Peace Establishment of the United States."

The question recurred on striking out the first section of the bill—

Mr. COCKE remarked, that he understood the question before the Committee to be on striking out the first section of the bill. In examining the merits of this section, it would be proper, in the first place, to show that the remarks of the gentlemen who were in favor of it, were not tenable.

Mr. C. would agree, that the inspection of the Army ought to be kept up; and he would also admit that the duties of the Adjutant General should be performed; but he contended they should be done in such way as was consistent with the public good. He would never consent that a strict scrutiny into the conduct of our public servants, whether in the military or civil department, should be dispensed with. But, in the reduced state of our finances, it was proposed to examine and see if the public burdens could not be lessened without injury to the public service. Mr. C. would not legislate for men. He had as much confidence in the present incumbents as other gentlemen; but, if their services could be dispensed with, and the public sustain no injury, he thought it ought to be done. The gentleman from New York, (Mr. STERLING,) had contended that the Government should treat the officers with gratitude. Mr. C. would admit it in its fullest extent. But could an instance be pointed out in which it had not been grateful? If there has been, at any time, a vacancy in the civil department, have they not been the first persons selected to fill it? The only exception that he could remember was in the appointment of Commissioners under the Spanish Treaty. The officers, he thought, were the peculiar favorites of the Government. Yet he could not agree to keep any men in office longer than the public interest required. If the gentleman from New York (Mr. STERLING) could show any practical use or benefit in retaining the Major General, he (Mr. C.) would vote for retaining. He entertained for him a great personal respect. But can he have a command at any point? At the Council Bluffs there are about six hundred men; at Sackett's Harbor about five hundred; and at New York two or three companies. Is it necessary that we should have a Major General to command them? Shall he, then, be called on to discharge the duties of a command to which no force in the country is adequate? There is nothing for him to do, unless he also is made an Inspector. Almost all our superior officers have been made Inspectors. The two Brigadiers have lately returned from this service, in addition to the Inspector General. One reason which the gentleman has urged in favor of retaining the Major General is, that he is embarrassed in his pecuniary concerns, occasioned by his devotion to his country and his profession. Mr. C. would only say, that, if the fact were so, it was not his country that had embarrassed him. From the year 1817 to 1820, the Major General received upwards of \$6,000, besides extras to the amount of upwards of \$1,000 thousand dollars more. Last year, indeed, his compensation was reduced to about \$4,500; but, with such liberal allowances, he thought the country could not be charged with contributing to his misfortunes. He, Mr. C., was as little disposed to make the Army inefficient as any gentleman on this floor, and, if it could be fully shown that the bill would do it a real injury, he would vote against it. But until that time he should support it. It was not necessary, at present, to bring into view the situation of the country. The

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state of the Treasury was well known to be such that we were compelled to resort to loans.

Mr. C. examined the details of the bill, and remarked, that, if it should pass, it would concentrate the military system to a point in the city of Washington. There would be, in fact, a reorganization of the whole Army. The gentleman from Georgia, (Mr. TATNALL,) contended that inspection was necessary, and that there was no provision for it in the bill. If this argument were founded in fact, it would be conclusive. But could not the inspection be as well and as faithfully done by officers detailed for that purpose, as by persons specially appointed? If the experiment should not prove beneficial, it would be easy to revert to the present system. The same might be said of the Adjutant General's department. It was less expensive, and worth the trial—and if, at the end of twelve months, it should be found injurious, there would be no difficulty in going back. It was always easier to create officers than to get clear of them. There was no sort of difficulty in getting the offices filled. Mr. C. expressed the most unlimited confidence in the integrity and correctness of the Inspector General, but, if the Government did not want his further services, he thought it was a sufficient reason why the office should be dispensed with. The expenses of transportation in that department, said Mr. C., are enormous, and we have two Inspectors, which was certainly more than was necessary. The Adjutant General is only the secretary of the Major General. He keeps a bureau at the Seat of Government, and a Brigadier might as well perform the duty. The Quartermaster and Subsistence departments must be kept up. In this, said Mr. C., we agree. All others in time of peace, should be reduced to the smallest number possible. It had been said that the science of the Army should be retained. Had not experience shown that this expectation was fallacious? Had we not a peace establishment before the last war? And what was the result? The old officers performed little or no service. It was the young officers who gained the battles. The old ones seemed to have forgotten all they had ever known. This bill, Mr. C. stated, would save about \$110,000, and with the amendments contemplated it would save upwards of \$400,000, which, in the present condition of our fiscal concerns, was not an unimportant saving.

The gentleman from Georgia, (Mr. TATNALL,) had objected that, in case of a Brigadier being ordered to a distant post, his place could not be supplied. But the bill provides for that contingency. He would not contend that the bill was perfect. In one particular he wished to amend it. But he was for going further than the bill in getting clear of the host of unemployed officers. That they are unemployed, your gallery daily and sufficiently shows. He hoped the Committee would not strike out this section of the bill. He would add one word with regard to the Surgeon General. He would admit that he had been a valuable officer; but, in calculating the retrenchments of this department, gentlemen had not

taken into consideration the material reductions in the price of the supplies, which had contributed greatly to the result which had been stated.

Mr. J. SPEED SMITH replied in a speech of considerable length.

Mr. WOODCOCK said that it was with great deference that he had proposed the amendments to the bill now before the Committee, a bill drawn by the honorable the chairman of the Committee of Military Affairs, (Mr. EUSTIS,) a gentleman in whose military experience he had the greatest confidence. But, believing as he did, that the present organization of the peace establishment was too expensive for its utility, and that the bill, as reported, would not remedy the evil, he felt it his duty to propose the amendments, and briefly submit his views on the subject. His object was not to destroy the Army, as had been alleged, but retain such an establishment, and such an one only, as was sufficient in time of peace, and such only as could be brought within the compass of a reasonable expense. Mr. W. observed, that it had been stated, and stated correctly, that the property of the United States belonging to the War Department, was scattered over the various parts of the Union, and that it should be preserved; our military depots guarded, and our frontier protected. He admitted the principle to the full extent, and whatever might be the expense of an army, sufficient for all these purposes, he would retain; but beyond that he did not believe an army in time of peace useful. He considered it at war with our Constitution, and the genius of our Government to keep an army, when we were at peace with the whole world, in anticipation that we may have a war; and such is the arguments of the gentlemen who have preceded me in this debate. We have been told that it is necessary to retain officers beyond what is wanted for the existing establishment, that our country may receive the benefit of their military skill, should they be engaged in another war. Again, we are told that gratitude for those who have fought our battles, and defended our country, requires us to retain them in office, even if their services are not required. Mr. W. said, he had mistaken the characters of the officers of the last war, if that was the kind of gratitude they asked. Sir, the examples of those brave men, who fought your battles in the Revolution is not forgotten; the same spirit which actuated them, and led to victory, inspired the officers and soldiers of the late war, to return to private life when their services were no longer useful to their country, and always ready when their services should be required, again to take the sword and defend your liberties; and they ask the same gratitude, not an office, by the way of pension, but the blessings of a free people, and remembrance in the day of adversity. Office, said Mr. W., should be created and filled for the benefit of the nation, not the individual. Neither, in his opinion, ought Government to retain a single officer on the principle that we may have a war, and may want their service. The gentleman, my colleague, (Mr. STERLING,) has called our attention to Greece and Rome for example.

Mr. W. said he wanted no examples from Greece or Rome, either for our military or civil institutions; our habits, situation, and Government, is different. But should it, as the gentlemen say, again be our misfortune to have another war, we have the materials for a sufficient army always at hand. They are to be found in every State in the Union, and he had rather take a man from his farm, or merchandise, to command an army, than he who held the rank of an officer, without the service. If you retain officers, give them service, for he who is an officer but in name, and is not required to perform the duty attached to the office, in a few years becomes worthless to himself, and useless to his country. If, said Mr. W., we must retain supernumerary officers, not required for the present service, he should recommend placing them in the Military Academy, where they might undergo a rigid discipline, lead an active life, and retain at least habits of industry, and the theory of war. Mr. W. adverted to the appeal which his friend, Mr. S. had so eloquently made to the gratitude and good feeling of this House, in favor of the Major General, who, by the provisions of the bill, as reported, is to be dispensed with. Mr. W. expressed his personal respect for that officer; he had known and admired him; the best feelings of his heart were in his favor, but he must separate his official duties from his personal feelings; he came to legislate for his country, not for individuals; and he thought his friend, Mr. S., had mistaken the high and honorable feelings of the hero of Niagara and Chippewa, if he supposed that he would condescend to accept a compensation from his country for services no longer required.

Mr. W. said, he would be the last who would say to the officers who have fought your battles, retire, if they could be beneficially employed in the service. This was not his object, but to keep in service those only who could be thus employed. He was in favor of retaining the Adjutant, Inspector, and Surgeon Generals; that the officers at the head of these departments should be retained, he had no doubt. If you keep an army, give each department a competent officer at its head; for without that, your whole system is destroyed. On this point he should not dwell. That amendment which he had the honor to propose had been adopted, and he thought the remarks of the honorable gentleman from Georgia (Mr. TATNALL) on that part of the bill conclusive. But, that the regiments and companies should be consolidated, this skeleton system done away, and the supernumerary officers disbanded, he had no doubt. Your Army, as now organized, consists of four regiments of artillery, nine companies each, and seven regiments of infantry, ten companies each. To these regiments and companies, you have more than four hundred commissioned officers—this without your staff, and when the strength of your Army, including your general staff, corps of engineers, officers of ordnance, academic staff, and the cadets of the military academy, is but five thousand seven hundred and seventy-four. Out of this number there is but about four thousand privates, giving

about four hundred to each regiment; and to your regiments of artillery, forty-eight commissioned officers; infantry, thirty-three. Mr. W. would ask whether these officers could be all usefully employed? For one, he thought not, and if not, he must have other and better reasons assigned, to convince him this amendment ought not to be adopted. We have, but forty-six military posts; at some of these there are stationed but three and five men. Officers cannot be required, unless to recruit, where there is not a sufficient number of men for a corporal's guard; and will you not have a sufficient number of officers should you consolidate your regiments and companies agreeable to the amendments which he had submitted? It cannot be denied that, for every purpose, either to discipline your men, guard your posts, superintend your military depots, or take care of your property, you will have officers sufficient. There is but one argument in favor of a skeleton army. It is, as he had before observed, to have your army so organized that you can expand it in case of a war; and to support this principle, the opponents of the amendment are compelled to resort to this argument: keep your officers in service; give them pay whether you can employ them or not; for, should they retire to private life, to habits of industry, and become our most useful citizens, they will lose all military science, and forget the art of war; and should our country again be engaged in war, and their services again required, they will tell you, "We were driven from the Army; you must call on other men to fight your battles." This is an imputation upon those brave men which they do not deserve. Mr. W. said he hazarded nothing in saying, the officer who ought to be retained on any system, who, should he be discharged from the service by the adoption of the amendment, will not thank you to retain him in your peace establishment any longer than you have duties for him to perform. It has been asked by my friend, (Mr. STERLING,) will you drive men from the service who have made military science their profession—who know no other business, and who are fit for no other? And if, said Mr. W., he understood the gentleman, "will you cut their heads off?" The gentleman and myself differ as to the character of those officers who would be of any use to us in the event of a war. The man who is useless, and worth nothing in private life, is worth but very little in public—yes, so little, he had better be out of the Army than in. Mr. W. was unwilling to believe there was any, he hoped not any, of that character in the Army.

But he who is fit to command your army, is fit and willing to retire to private life when his country no longer requires his service. For the truth of this, he should not appeal to Greece and Rome; he would call the attention of the gentleman to the close of the Revolution; there he will find men, whose names are identified with the liberty of our country, who retired to private life. Neither they nor their friends (when I say friends, I mean the people of the United States) understood the doctrine that officers were to be retained on a Peace Establishment, to build on in case of war.

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This doctrine is of more recent date; it was first taught in 1797 and 1798, when the French were on the eve of invading our country. It was then thought necessary to have an army of officers without men: and, had the French landed on our shores, the skeleton army would have expanded to a host, and protected every foot of our territory from the invader. Fortunately, the French thought it advisable to keep the other side of the Atlantic. The army of officers were disbanded, and you hear no more of them until the last session of Congress. Then Congress became alarmed that Spain might not ratify the treaty ceding to us the Floridas. It was found necessary to have another army of officers without men. When it was understood that the treaty was ratified—that the Floridas were ours—no army wanting to take them—it was to be hoped there would be no longer a pretext for keeping this skeleton system. But new dangers are foreseen. The late recognition of the Spanish provinces may lead to a war; and the storm of war is foreseen in every part of the political horizon; and it is with triumph asked, will you destroy your little army on the eve of a war? Will you invite aggression by destroying all means of defence? Mr. W. observed that he would neither destroy the Army nor invite aggression or invasion; he would render the Army useful by retaining only those who could be usefully employed. But he must be pardoned for refusing to give full faith to the political wisdom of those gentlemen whose prophetic eye always discovered danger when you propose any reduction in the expenses of your Government.

We may have war, and, should it come, he trusted his country would be able to meet it, and again maintain our rights. The defence of your country is in her citizens and her free institutions. Let your citizens have confidence in your Government, and they want no standing armies in time of peace. Let them know that your Government is administered with prudence and economy; that the system you are pursuing will not entail on them and their posterity a national debt; and they will defend your rights. A well-organized militia is their motto. And believe me, said Mr. W., I had rather nearly an half million in your Treasury, which must be annually spent in the pay of your supernumerary officers, should be appropriated towards the payment of your national debt.

Mr. W. said he might be called a *Radical*, for wishing to adopt a system of economy in the several departments. He was indifferent as to names. But it was a fact, and not to be disguised, that all the money we could save would be wanted to meet the payments of our national debt, as fast as it became due.

But a few weeks had elapsed when the bill for the exchange of stock was before us, which bill was nothing more nor less than obtaining a credit of eight or ten years for a part of our national debt. And is there a gentleman in this Committee who would have voted for that bill, did he believe that we could safely calculate on our revenue to meet those debts at the time they would

fall due, without resorting to loans or a direct tax? For one, he would not.

The advocates for that bill were frank in saying it was to get more time to meet those debts, that we might hereafter have an increase of revenue, and, by deferring the payment, we should not be compelled to resort to a loan or tax. Do gentlemen think, when they talk of war, and see the storm gathering, that it will bring you commerce and revenue? The same gale will not waft us both. It is easy to talk of war when your army is to be reduced, and of commerce and revenue when means are proposed to meet the expenditures of your Government. These visionary schemes will not do. If Congress cannot be convinced, the tax-gatherer will convince the people, and they will speak a language that must and will be heard and understood in this Hall.

Mr. W. observed that his remarks had been desultory. It was his wish that his views in proposing the amendment might be distinctly understood. He did not intend to reduce the effective strength of the Army. It will, with the number of men now in service, put seventy-two privates into each company, and ten companies into a regiment, and gives the same officers to your regiments and companies which are now in service by the present arrangement. There will be two hundred and eighteen commissioned officers, exclusive of your staff, your engineer corps, and ordnance department. This number appeared to him amply sufficient to command your four thousand privates, and enough to be stationed at your forty-six military posts. This arrangement disbands the officers of two regiments of artillery and sixteen companies, three regiments of infantry and thirty companies; and will save annually in the expense of the Army, including the saving by the other sections of the bill, a sum not less than \$402,000; and the amendment now proposed a sum over \$350,000.

Mr. W. said that he agreed with the gentleman from Georgia (Mr. TATNALL) that the bill, as reported, is better calculated to disorganize than organize your army. Impressed with that belief, and that the good of the Army required that the officers of the several departments should be retained, he moved the amendment to the first section of the bill.

It is now for the Committee to say whether they will adopt this amendment—whether they will retain supernumerary officers on a peace establishment to build on in case of war, or whether they will consolidate the regiments and companies, and retain such officers as are necessary for all purposes in time of peace, and at a saving of nearly an half a million of dollars annually. Mr. W. said he had been told that prejudices existed against the Army. He disclaimed any; and, if he had prejudices, they were against an useless expenditure, and not the Army.

When Mr. W. had concluded—

Mr. McDUFFIE said, the gentleman from New York (Mr. WOODCOCK) had presented to the Committee a project, by which he promised to realize extraordinary results. But he thought the gentleman

would experience the fate of all projectors; and that his calculations, by which he had deceived himself, and unintentionally misled the Committee, would be found, upon examination, to be altogether fallacious. He said that he, too, had consulted documents and made calculations. And though he admitted that his were partly conjectural, as all calculations must be on this subject, yet he would venture to say that they approached as near the reality as those of the gentleman. The gentleman proposes, said he, to effect an annual saving of four hundred and forty or fifty thousand dollars by consolidating the regiments of artillery and infantry. This consolidation would have the effect of destroying the existing proportion between the officers and men, and of disbanding considerably less than one-half of the commissioned officers. Now, said he, the whole annual expenditure for the pay and rations of all the commissioned officers in the artillery and infantry, amounts only to but little more than three hundred and twelve thousand dollars. If to this we add one hundred and twenty thousand dollars, for contingent allowances, it will amount to something less than the gentleman proposes to save by a partial reduction! By what principles of calculation a part could be made to cost more than the whole, it was for the gentleman to explain. But, Mr. McD. said, he had minutely calculated the pay and rations of all the commissioned officers proposed to be disbanded, and they amounted to less than one hundred thousand dollars; and, if even fifty per cent. were added for contingencies, the gentleman's four hundred and fifty thousand dollars would dwindle into one hundred and fifty. But, said he, it is a very mistaken supposition that even this sum will be saved by the proposed consolidation. The gentleman has entirely overlooked the fact, that all the subordinate officers of the administrative branches of the staff are filled by details from the subalterns of the line.

What gentlemen improperly denominate the supernumeraries of the Army, are not, therefore, unemployed. They are efficiently and profitably employed in performing those functions by which the expenditure of the Army has been so extensively economized since the present organization has been fairly in operation. He would not pretend to speak with absolute precision, but he should hazard nothing in asserting, that at least one-half of the subalterns of the line, which the gentleman's amendment would throw out of service, were engaged in the performance of staff duties—equally indispensable to the efficiency and economy of a Military Peace Establishment; and for which officers must be provided, to whatever point of depression we may carry the general reduction of the Army. What then, said he, will be the consequence of disbanding the officers detailed from the line to perform these duties? A saving of expenditure? No, sir, but a change of the officers who are the objects of it. And the only difference would be, that we should have those duties badly performed, at the same expense, by officers who have no rank in the line, divested of all military pride and military experience. To

this extent, therefore, he said he might safely say that the scheme of consolidation would produce positive and uncompensated evil; change without improvement, and derangement without economy. But, said he, there is still another source of delusion in the gentleman's calculation. His proposed object was to bring back the relative proportion between the officers and men, to the standard of the Peace Establishment of 1802. But, if he will extend his calculations a little further, he will find that his amendment will reduce the relative number of officers much lower than it was even in Mr. Jefferson's Peace Establishment. In that Establishment there were sixty-four men to a company of infantry, and fifty-six to a company of artillery, making an average of sixty men to the company. Now, if we divide the whole number of the present Peace Establishment, by the number of companies proposed to be retained, we shall find that each company will contain at least ninety men; fifty per cent. more than the number that constituted a company in Mr. Jefferson's Peace Establishment. If, then, we do not carry the consolidation principle farther than it has been carried in any former Administration, it will be found that this magnificent scheme of saving will almost entirely vanish. In fact, said Mr. McD., the gentleman has alarmed himself, and perhaps the Committee, by exhibiting the fearful aggregate of more than fourteen hundred officers; not reflecting that two-thirds of this number were officers of the ordnance and engineer corps and non-commissioned officers. No man would propose to abolish any part of either of those corps, for, if we had not ten privates in the Army, it would be on all hands admitted that they must be retained. The whole number of commissioned officers in the artillery and infantry, upon which alone the amendment can operate, is four hundred and twenty-seven.

But, sir, said he, I have now done with the calculations of the gentleman from New York, and must solicit the attention of the Committee to topics of infinitely greater importance. The gentleman from Tennessee (Mr. JOHNSON) seems to be quite alarmed at the idea of having any military knowledge in the country in time of peace, and exhorts us to place our entire reliance on the militia in the event of a war. These fatal and delusive doctrines, he said, which were but too extensively prevalent, demanded the most serious refutation. A great question is now presented to us, and we should approach it with a gravity proportioned to its magnitude. We are called upon to determine what shall be the policy, the permanent and settled policy of this Government in time of peace, in reference to those great national exigencies which must inevitably grow out of our relations with the other Powers of the world. The theory of our Government is almost completely adjusted; and the embarrassing difficulties which have been experienced in the practical operation of our system, have almost entirely passed away. But that remains to be determined, which is not less important, whether, by a liberal and enlightened policy, we shall sustain the high

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rank in the great society of nations, for which Providence seems to have formed us; or by disregarding the dictates of wisdom, and the impressive admonitions of our own experience, sink into feebleness and contempt, putting to hazard all that is dear to us, and all that is interesting to the friends of human freedom throughout the world. There is not, said he, on earth, a nation occupying so important and responsible a station as the United States. The only established Republic in existence, she is charged with the maintenance of those great principles, which are destined, as I firmly believe, to overthrow every despotism in the civilized world. Sir, they do not know the people of this country, who suppose them to be actuated by a spirit of narrow parsimony, and that they will not cheerfully bear all the burdens necessary to sustain the character of the nation, and vindicate her rights. It is a slander upon them to suppose that they will not pay the price of their liberty, by making the sacrifices necessary to defend it. You could not offer a greater insult to an American, than to ask him whether, when the rights and the honor of his country are assailed, he would count the cost of defending them. I beseech gentlemen to consider the character of the people they are about to disarm. No people on earth are more high-minded or more prompt to resent an insult or an injury. They possess, in an eminent degree, that lofty sense of national honor, without which no nation can be either respectable or happy. And it is for this people, rising rapidly to greatness, and having in their political institutions, as well as in their commercial relations, never ending sources of jealousy and collision, with the great Powers of the civilized world, that we are called upon to adopt a policy which nothing could justify but the prospect of an eternal peace. By a strange infatuation, we seem to be as prompt to adopt measures that may produce war, as we are reluctant to prepare for it. What a scene did we exhibit but the other day, when the question of recognising the independence of Spanish provinces was presented to us? How did we then reason? Were there any cold calculations of probable danger? We saw nothing but a brave and oppressed people, who had been for years struggling with difficulties, which they had at length almost surmounted. We were asked if we would receive them with a fraternal embrace and introduce them into the society of nations? The heart of every American responded in the affirmative. Then, indeed, we were all Americans. With a noble disinterestedness we unanimously adopted a measure, to which we were stimulated by no prospect of gain, and which may seriously jeopardize the peace of the country. I will not say that I believe it will produce a war with Spain. I incline to believe, on the contrary, that it will not. But it would be blindness to say there is no danger. For, though Spain is feeble and distracted, and could promise herself nothing from a war with this country, yet, with the encouragement and secret aid of other Powers, she might carry on a desolating war upon our commerce. And there is one Power in Europe that will be prompted

both by political feeling and commercial interest, to foment a war between this country and Spain. It cannot be disguised, however we may lament it, that America and Great Britain are destined to entertain towards each other feelings of rivalry, approaching almost to hostility and hatred.

Every historical recollection and every anticipation of our future greatness, all that is past and all that is to come, warn us that these two nations, the dissevered members of the same empire, are destined to be the Rome and Carthage of modern times. From sources the most authentic, from every respectable writer and every respectable witness, we are assured that there is but one thing in which all classes and all political parties in Great Britain concur; and that is, a deep and settled feeling of hostility to the Americans. The very name is execrated. And what is the fact in relation to ourselves? What is the first lesson which the father instils into the infant mind of his son? It is, that when he grows up to be a man, he must fight the British. I do not mention this with a view of being responsible for its philosophical correctness, but for the purpose of showing what the fact really is, in relation to the mutual feelings of the two countries. And will any man flatter himself that those feelings, unlike all the other strong sentiments of the human heart, will remain forever inactive? But, upon mere commercial principles, Great Britain has much to gain from a war between the United States and Spain. Such a war would throw the whole carrying trade, and most of the direct trade now enjoyed by us, into the hands of Great Britain. For, however contemptible we may consider the naval power of Spain, her privateers and ships of war could so annoy our commerce that the enhanced price of insurance would drive our shipping from the ocean, and leave Great Britain in the undisturbed enjoyment of a monopoly. Sir, said he, it is under these circumstances that we have recognised the independence of the Spanish American provinces; a measure in every respect just and magnanimous, but certainly not characterized by a cold and calculating prudence. And yet this is the moment gentlemen have selected, with what consistency it is not for me to determine, for destroying entirely the utility of the Army, considered as a preparation for war. For, I shall hereafter show that the present organization of the Army is of the very essence of a Peace Establishment; viewed in reference to war, the only object which can justify its maintenance. But we are told that the militia are capable of defending us, and that this nation ought to be taught to rely wholly upon that species of force. Sir, I do declare, upon my conscience and before God, that there is not, in my opinion, amidst all the heresies incident to this young nation, a more fatal delusion than this. We may trace its origin partly to an injudicious and indiscriminating application of general maxims against standing armies in time of peace, and partly to our classical recollections. Greece and Rome, the nations of antiquity with whose history we are most familiar, and whose achievements we most admire, were nations of soldiers. War

was their trade ; rapine and plunder the sources of their public and private revenue. The whole mass of their population was trained, by perpetual wars, to the use of arms. In a word, the whole nation was a standing army ; and such was the rude simplicity of the art of war, that, not only was every citizen a soldier, but almost every soldier was capable of commanding. Hence, the provision in the Roman laws that prohibited the consul from commanding the armies of the republic two years in succession, was productive of no great inconvenience, though, in the organization of modern armies, such a regulation would be utterly absurd and ruinous. And hence, also, the absence of standing armies, distinct from the great body of the community. The defence of the republic was left, not to untrained militia, but to citizen soldiers, drawn out by conscription or voluntarily rushing to their favorite pursuit. But the habits, the pursuits, the propensities, and the entire structure of modern society, are precisely the reverse of all this. Our occupations are essentially peaceful. Each individual is dedicated to the pursuit of his own private interests, and in this way, most effectually contributes to the grand aggregate of national wealth, power, and happiness. This is eminently the case in the United States ; and the very essence of the freedom of which we are so justly boastful, is the security and the safety with which the citizen pursues his occupation. Now, if we abandon the idea of defending the country by a standing army, we must be inevitably driven into the conscription system—a system wholly inconsistent with the state of our society—a system at once intolerably oppressive to the people, and absolutely insufficient for the great purposes of national defence. I understand the gentleman from Tennessee (Mr. CANNON) to admit, distinctly, the consequence which I have stated as resulting from his position, and to maintain the policy of the conscription system. I think a slight examination will dispel this delusion. One would suppose that no man would deny the general proposition, that, whether the country shall be defended by conscripts or regulars, they must be trained and placed under the command of skilful officers. To deny this, would be to set at defiance every dictate of reason and every lesson of experience. War, in its present state, is the most complex and difficult of all arts. There is none so extensive in its elements and so infinite in its combinations, requiring so perfect a union of theory and practice. There is scarcely any limit to the increase of physical power which an army may derive from training. There was, perhaps, never an army on earth, not excepting those of Frederic the Great, or of Napoleon, that might not have been visibly improved by longer training and more experience. Then, how perfectly idle is it for us to imagine we can, with untrained militia, led by inexperienced and unskilful officers, encounter with success the disciplined troops of other nations ? This would be denying the efficacy of experience and practice in an art whose whole power depends upon them. While then other nations keep up a certain state of military skill and

discipline, it would be madness in us to neglect it. Then what is the consequence ? According to the views of the gentleman from Tennessee, we must train, in time of peace, our entire population. This result cannot be avoided. And thus, instead of a standing army of six thousand, we should substantially maintain one of nearly as many millions.

Sir, such a scheme, besides that it would be harassing beyond endurance, either in peace or in war, is utterly visionary and impracticable. You cannot train a nation of freemen, of the education and habits of the Americans, to the exact and slavish discipline of soldiers in time of peace ; and if you could, it would be the most expensive and ruinous preparation for war that could be devised. Disregarding the great principle of the division of labor, it would disturb all the relations and pursuits of society ; and render peace but little preferable to war. So that we are driven back to the question, Whether we shall maintain a Military Peace Establishment, organized for war, and susceptible of the utmost expansion in that event, or rely upon the militia, without training and without competent officers, for the first two or three years of every war ? We have heard much of the bravery of the militia, and no man will go farther than I will in doing justice to their gallantry and devotion. I rejoice in the exalted character of my countrymen, and indulge the proud belief that there is not on earth so brave and so generous a population. But they will not thank gentlemen, I am sure, for that sort of kindness which praises and then sacrifices them. When the country shall be involved in difficulty and embarrassment ; when our soil shall be contaminated by the foot of an invader, who can doubt that every American would nobly and fearlessly encounter every danger, and sustain every burden, demanded by the safety and honor of the Republic ? But what is the just inference ? Because they are brave, shall we send them to be slaughtered in an unequal conflict with the trained legions of European despots ? Because they are devoted, shall we offer up their blood in disastrous and unprofitable battles, where all their heroism cannot save the arms of the Republic from discomfiture and disgrace ? Sir, it is a cruel policy thus to tax the noble virtues of this people—to graduate the suffering and the sacrifices to which you expose them by their disposition to sustain them. And, after all they shall suffer, they will not even have the consolation to reflect that their sufferings have saved their country from desolation. You may find victims in abundance ready for the altar ; you may build a wall of the dead bodies of our slaughtered countrymen, but you cannot by that means secure and defend the country. What, sir, was our experience in the late war ? The blood is hardly cold that was so wastefully shed in that contest, and we are called upon to disregard its solemn admonitions. Even here, in the seat of legislation, we are surrounded with monuments, at once of the Gothic ferocity of our enemy and of our own disaster and disgrace, and, before the marks of the spoiler are effaced,

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we seem to have lost all recollection of what we have suffered. After the experience of the late war, there was but one opinion among the statesmen who had been most active in its prosecution. They were convinced that the honor and safety of the country demanded that we should assume a respectable attitude of defence. The nation demanded it. And, sir, if the present Administration, regardless of the lessons of our past experience, had not pursued their present policy, but left the country unarmed and defenceless, how heavy and awful would have been their responsibility in the event of another war! The blood of the brave, the tears of the widow, and the cries of the orphan, would have risen in judgment against them. I do most solemnly protest against this cold-hearted economy, which, to save a dollar, would sacrifice the life of a freeman. I protest against this vacillating policy, vibrating from one extreme to another, and which, to avoid those burdens which we can easily bear in peace, causes millions of money and torrents of blood to be squandered in vain in time of war. This is the fatal weakness against which every nation ought to guard. We are too apt to imagine that what now is, will always continue, and to neglect, consequently, all preparation for the storm, till its desolation has commenced. This is the weakness of children. But even they will not put their hands a second time in the fire, and I trust we shall not act less wisely. I will venture to assert that no nation ever suffered as much as did the United States in the late war, if we take into consideration the duration of the war, the geographical position of the country, and its latent capacities for such a conflict. And how unjust is that policy which throws the whole weight of suffering upon that disastrous period which is least capable of sustaining it. In war we tax the people, though their commerce is destroyed, and the productions of their industry perish on their hands. And yet in peace we are to make no preparation to mitigate the shock.

But preparation is not only necessary to enable us to prosecute a war with success, but it is the most effectual means of preserving peace. We invite aggression by being unprepared to repel it. No truth is more fully established than this by our own experience. What was the condition of this nation before the late war with Great Britain? From about the year 1806 or '7, no high-minded nation ever suffered so deeply and patiently. It was unmixed and unmitigated suffering—the privations of war, without its consolations. Why was it inflicted, and why did we endure it? Because, sir, we were not prepared to redress our wrongs. Our enemy knew this. He was as well apprized of our situation as we were ourselves. And how did he reason? Why, said he, "I will cut off this branch of their trade, and see how they will bear it." And we, making a cold calculation of profit and loss, said, "This is not worth defending by war." Finding us tame and submissive, he lopped off another branch of our trade, and we still submitted, because a war would cost more than we could gain by it. And thus one aggression prepared the way for another, until

we reached the lowest point of national degradation. At length the wounded spirit of an indignant people called for war. And what were we then told upon this floor? That, though our commerce was swept from the ocean, and thousands of our citizens were held in disgraceful bondage, we ought to submit patiently, and trust to the magnanimity of our enemy, because we were unprepared to defend our rights and avenge our wrongs! If we had commenced a formal preparation for war, I doubt not the enemy would have retracted. And if we should hereafter pursue the wretched policy of preparing for war, after we have received the injury which justifies it, we shall be the sport of every nation that can gain by destroying our commerce. For they will continue their aggressions till we are prepared to obtain redress, and then will abstain till we have again disarmed ourselves. That Great Britain did not pursue this course, I ascribe to her firm belief, to the very last, that we would not go to war unprepared. But, unprepared as we were, we rushed fearlessly into the conflict. The nation resolved nobly to hazard every thing to redeem its character. And what confirms my views of British policy, the edicts by which our commerce was annihilated, and which were the prominent causes of the war, were soon repealed after it commenced. But, having commenced the war, we determined to persevere till all our rights were secured. By the favor of Providence we succeeded; but, when I look back upon the sufferings we endured, and the perils we escaped, I pray to God that I may never see my country again involved in a crisis so awful.

But we are told of the dangers of a standing army in time of peace. Sir, if a standing army is at all dangerous, it is not in peace, but in war, that our fears should be excited. And the more unprepared the nation is at the beginning of the war, the less military knowledge there is diffused through the country, the greater will be the danger. When a country is weakened by disasters, and humbled by disgrace; when all the ordinary means of safety have failed, then is she driven by desperation to confide the utmost power, and offer the most unbounded homage, to some great military chieftain who shall rise up to redeem her from approaching ruin. Then, sir, even gratitude is dangerous. What was the fact in the late war? The military engrossed all the admiration, the rewards, and the honors of society. No one was heard of but the brave and heroic defenders of the country. But how are they now treated? With cold neglect and cruel contempt, as mere outcasts from society. Yes, those to whom, in the hour of danger, we almost bent the knee of homage, scarcely receive naked justice at our hands. If this is wise, it is certainly not consistent. But it shows clearly that our army is not dangerous in peace. The only objection to an army in peace is, the expense of maintaining it; and I shall now proceed to show that, whether we regard economy or the efficiency of a Peace Establishment, the present organization ought to be preserved. In this view of the subject, the

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question is, what organization will, at a given expense, give us the greatest capacity for war? It must be admitted, by every one, that the success of modern wars principally depends upon the skill of the commanders. And it is equally clear that, to form officers, much time is required, in comparison with what will be sufficient to train common soldiers. We have been told that, in the late war, the officers of the former Peace Establishment obtained no distinction.

Gentlemen are mistaken in point of fact. Have they forgotten the names of Scott, who was among the first to carry the terror of our arms into the frontiers of the enemy?—of Gaines, whom we shall long remember as the hero of Fort Erie? and of thirty others who signalized their skill during every period of the war? But even if the fact were as gentlemen suppose, I would not admit their inference. No historical events could convince me that, as a general rule, officers can be created without much study and long experience. To be sure, as gentlemen say, we have materials enough to make officers, if this could be done by the mere imposition of hands, or the investiture of a red coat. I know we have had many such officers; but we have found from experience that a red coat does not always give assurance that there is an officer and a soldier under it. Gentlemen really talk as if we had only to stamp on the earth, and not only armed men, but trained armies, would rise up to defend us. The hero of New Orleans has been held up as a prop to a falling argument. But Jackson is a man of extraordinary genius, and nothing can be more unwise and unphilosophical than to draw general conclusions from a military prodigy. Taking it for granted then, that skilful and experienced officers are indispensable, and that it is the work of years to make them; it will follow that the extent of your capacity for war depends upon the number of competent officers. Hence the importance of maintaining in peace the skeleton system, by which the Military Establishment can be promptly increased to double its present number without appointing a single new officer, or changing in any respect the organization of the Army. It will only be necessary to place a new recruit by the side of each regular soldier, and by this simple operation the work is completed. And it is admitted that in three months, raw soldiers thus thrown in, can be adequately trained. Thus our present establishment gives a capacity for war, equal to what we should derive from twelve thousand men upon a war establishment. Nothing is more certain than that the present organization is the most economical, as it gives us a given military preparation for little more than half the sum it would cost, if the regiments and companies were kept full, as proposed by the gentleman from New York. While on the subject of economy, I will advert to a single fact, to show the effect of false economy. I believe it can be shown that fifty millions of dollars were wastefully expended in the late war, for the want of such an organization as we now have. If this sum were converted into a permanent fund, the interest of it would main-

tain, forever, a much larger Peace Establishment than the present! Yes, sir, the fact cannot be too deeply impressed, that in a little more than two years of war, the mistaken system into which gentlemen would now carry us, besides the cost of blood, subjected the nation to the actual loss of a sum which would support an army of ten thousand men for as many centuries. I do then beseech gentlemen, by every consideration, to reflect upon the consequences of the proposed reduction. I beseech them by the lessons of history, by the bloody record of our own disastrous experience, and above all, by the precept of the Father of this Republic; a great and venerable name, destined, I firmly believe, to reclaim us from a downward and degenerate policy, where even reason shall fail. For, of all the great men in America, WASHINGTON alone will be found, "in war and in peace," to have been "wise unto salvation."

When Mr. W. had concluded—

Some remarks ensued in relation to the effect of the question before the House, in which Messrs. RHEA, SMITH of Maryland, TAYLOR, and WILLIAMS of North Carolina, took part.

Mr. COLDEN took a general view of the subject, in opposition to the bill.

Mr. COCKE would vote for the amendment of the gentleman from New York, (Mr. WOODCOCK,) although it did not fully meet his views of the subject.

The question was then taken, and the motion of Mr. WOODCOCK was carried by a large majority.

Mr. WRIGHT spoke in favor of the amendment of Mr. WOODCOCK.

The question then recurred upon striking out the first section as amended.

Mr. RHEA said he was in favor of retaining the first section of the bill under consideration. This bill proposes further to reduce the Army. We have been told to give pensions to officers by way of office. Magnanimous, high-minded men, such as the officers of the Army of the United States are, will not continue in service on such condition; if their country does not desire their service, they will not desire to continue in it. Very pathetic appeals, in strong language, have been made; attempts are made to enlist our feelings in this case. The day of feeling on such subjects is gone by—two laws have been enacted by Congress to reduce the Army of the United States. By the act of the 3d of March, 1815, entitled "An act fixing the Military Peace Establishment of the United States," the Army was reduced to ten thousand men—that was the day of feeling; in virtue of that act thousands of brave meritorious officers and soldiers were dismissed from the service—that was the time of feeling, when we were about to say farewell to thousands of those gallant men who victoriously drove the enemy from our country. I remember (said Mr. R.) when that bill was under consideration, attempts were made to have a section in the law providing that a portion of land might be given, in proportion to rank, to every officer who, by that act, would be deranged; but a pro-

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vision of that kind could not obtain. By that refusal the feelings of several members were outraged, but we had to bear it; at that time we were told that every thing promised was given. The law of the 3d of March, 1821, made a further reduction of the Army; by that law many meritorious officers and soldiers, and among them he who, under the Almighty, directed the energies of this nation against the enemy at New Orleans, and who, with the troops under his command, on the 8th of January, 1815, gained a victory over that enemy—a victory unequalled in ancient or modern times—were legislated out of service. Feelings were high at the time these two laws were enacted, but they were enacted; and what was the reason? The state of things in this nation required their enactment. I remember, said Mr. R., that, when the act of 1815, fixing the Military Peace Establishment, was under consideration in the House of Representatives, a member from Massachusetts urged a reduction of the Army to less than three thousand men, and it was with difficulty that ten thousand men were retained on the Establishment.

It has been asked, what has been done for the officers and soldiers of the Army? To this, it has been answered, that every thing promised has been paid. Congress made ample provision by giving a bounty in land—one quarter section to each soldier who enlisted under the first act, and one half section to each soldier who enlisted under the second act, for five years or during the war; besides bounty in money, subsistence, pay, and clothing; all these things the soldiers merited. The United States of America have always bountifully rewarded the officers and soldiers of their Army. Witness the law giving pensions to officers and soldiers of the Revolutionary army. But it is intimated that the bounty land given to the soldiers is not good; if that be true, it is not to be ascribed to the Government. Congress provided by law that the bounty land be fit for cultivation; if it is not, some mode will be adopted to discover how that is, and who has been the cause of it.

It is often urged that, to preserve peace, a nation must be prepared for war. On this proposition an inquiry arises—at what time will war be? What is the adequate measure of preparation? The existing nations of Europe, great and powerful several of them, in themselves, and respectively contiguous to, and surrounded by, powerful nations, are compelled, by the principle of self-preservation, to retain and keep large and numerous standing armies in time of peace; other reasons, showing why the ruling powers of the nations of Europe are compelled to keep large and numerous standing armies in time of peace, can be stated. The existence of standing armies in Europe did not always obtain—the overflowing nations of the north, in the decline of the Roman Empire, poured their swarms from the northern hive into the provinces of that Empire, and even into Italy itself, and ultimately rending in pieces that Empire, established new governments thereon, bottomed on the feudal system. The power of

the leaders, and of those named barons, became obnoxious to the chief. Jealousies arose, and finally the power of the barons was put down by various ways, and the power of the chief became paramount; to maintain that power, as well at home as abroad, standing armies became necessary; and, although but little at the beginning, they have increased greatly in Europe, and at this time are deemed necessary to keep in subjection the unarmed million, and to support power over those called subjects, and to perpetuate their subjection. Between Governments east of the Atlantic, and that of the United States of America, there is no similitude—east of the Atlantic the people are subjects, not sovereign, and receive the law; in the United States of America the people are the sovereign, and give the law, that is, they ordain and make constitutions and enact laws for their government; and when ordained and enacted, they are the constitutions and laws of freemen.

We are told frequently, and politicians repeat and repeat, “that, to preserve peace, we must be prepared for war;” so many talks have been made, within two or three days past, about preparing for war, that I have been, said Mr. R., almost persuaded that we are about to be immediately at war with some Power. We are told that, to preserve peace, we must be prepared for war. If so, then, when will war be, and with whom? What is, or shall be, the necessary measure of preparation? With any of the nations of Europe there is no probability that the United States will soon be at war. The nations and Powers of Europe have business of their own to attend to, and to keep them engaged in preserving their European relations. The differences existing between Russia and Turkey, and the mighty efforts and exertions of the Greeks to liberate themselves from Ottoman despotism, engage the attention of the other Powers of Europe. An invasion by an army of any European Power the United States need not be apprehensive of. The days of such invasion are past. In respect to being prepared for war, as relates to this bill, the proposition argues nothing; the present Military Establishment consists of about six thousand men—they are scattered in positions over the United States from east to west, from north to south, extending as far as the territories of this republican empire do extend, and for that reason, to an immediate resistance of invasion, cannot be effectual. It has been said, “let gentlemen of the South look to a servile war.” What an insinuation is this—look to a servile war! From whence, and from whom? The idea of a servile war never ought to be clothed with words. The Constitutional principles of our Government are not better understood than they ought to be. This is not a consolidated Government—it is a Government consisting of twenty-four confederated States, all sovereignties, independent of each other—each one having a distinct constitution for its own internal government; but by the Constitution of their union bound together as one nation, for their general welfare. The citizens of all the States, in their Constitutional union, are the sovereign, and the citizens of each State are the sove-

reign in that State, for the internal regulations thereof, pursuant to their respective constitutions, not contravening the Constitution of the United States. The defence of this nation is confided to the General Government, but not originally in every case. The fourth section of the fourth article of the Constitution provides that the United States shall guaranty to every State in this Union a republican form of Government, and shall protect each of them against invasion, and, on application, against domestic violence; but each State, in case of invasion, has, in respect to its own safety, a particular duty to perform; a State is prohibited, by the tenth section of the first article of the Constitution, to engage in a war, unless "actually invaded, or in such imminent danger as will not admit of delay." The Constitution, in these cases, authorizes a State to engage in war. With what forces shall a State engage in war? Not with the regular troops of the United States, if there be any within its limits. An officer commanding regular troops of the United States might, in the first instance, refuse the orders of a State authority. With whom, and with what description of force, shall a State make war, in case of sudden invasion or imminent danger, that will not admit of delay? With the militia. I repeat, said Mr. R., with the militia, who are the strong bulwark and impregnable defence of this nation; with the militia, who first must meet the storm of invasion; with the militia, from whom is drawn all the materials of a regular army; with the militia, that great body of citizens who work for all, who fight for all, and who ultimately pay all. The Constitution of the United States does not contemplate a regular army, except in time of war; the constitutions of the respective States declare standing armies dangerous in time of peace; that principle ought not to be contradicted. Admit the contrary to prevail, and the liberties of the people will ultimately be prostrated. The United States are now a nation of armed citizens. If a great standing army, under any pretence, is established and continued, and the citizens are loaded with taxes of any description to support and maintain that army, they will cease to be a nation of armed freemen, and in the course of a few years will be prostrated from their sovereignty, and become subjects. The United States are now encumbered with a large debt—some of it is the residue of the unpaid debt incurred by the war of the Revolution, and a residue of that incurred in the late war, and for other items of national expenditure. The best policy, in my opinion, said Mr. R., is to adopt such measures as will, without a system of internal revenue, extinguish that debt. The resources of this nation, arising from agriculture and commerce, are great, and will, if not restricted, in a few years, if sufficiently protected, extinguish that debt; the revenue will be relieved from pressure, and may then be applied to any useful purpose. To provide effectually for the extinguishment of the debt of the United States, is the preparation for war. The recollection of the difficulties arising from the scarcity of money, which the United States had to meet during the last war, ought to

persuade to the adoption of all such measures as will, without a system of internal revenue, conduce to the speedy extinguishment of the public debt. Let it be remembered that a public debt, never to the people of these United States can be a public blessing.

When Mr. R. had concluded—

Mr. SMITH, of Maryland, expressed his sentiments in opposition to the motion; when the question was taken thereon, and negatived—ayes 41, noes 89.

On motion of Mr. WILLIAMS, of North Carolina, the Committee rose and reported, and the House adjourned.

WEDNESDAY, April 17.

Mr. BATEMAN, from the Committee on the Post Office and Post Roads, to which was referred the bill from the Senate, entitled "An act for the relief of Thomas W. Bacot," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. FRANCIS JOHNSON, from the same committee, reported a bill further to regulate the Post Office Department; which was read twice, and committed to a Committee of the Whole.

Mr. ROCHESTER submitted the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of providing by law for the improvement of the navigation of the Hudson river, so as to open a free communication and direct intercourse for vessels of all descriptions with the internal canal navigation of the State of New York.

Mr. EDWARDS, of North Carolina, called for the question of consideration; which was decided in the affirmative.

On the question of agreeing to the resolution, Mr. ROCHESTER made a few remarks in support of it, and Mr. EDWARDS, of North Carolina, in opposition; when the resolution was adopted.

Mr. GORHAM submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be laid before this House a copy of the judicial proceedings in the United States court for the district of Louisiana, in the case of the French slave ship *La Pensee*, together with a copy of such part as he may not deem inexpedient to disclose of the correspondence of the Executive of the United States with the Government of France in relation thereto.

The resolution was ordered to lie on the table.

A motion was made by Mr. BRECKENRIDGE, that the Committee of the whole House, to which is committed the bill from the Senate, entitled "An act to define admiralty jurisdiction," and the bill of this House to authorize the holding of a district court at Louisville, in Kentucky, be discharged from the consideration of the said bills; which motion was disagreed to by the House.

A motion was made by Mr. MOORE, of Alabama, that the Committee of the whole House, to which is committed the bill confirming claims to

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lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States, be discharged from the consideration thereof; which motion was disagreed to by the House.

Mr. NEWTON gave notice that he should, on Friday next, move for the consideration of the bill to establish the compensation of the officers of the customs, &c.

Mr. COOK gave notice that he would on to-morrow move for the consideration of the report of the select committee appointed on the subject of the examinations of the western land offices, &c.

The House again proceeded to consider the message from the Senate, communicating their disagreement to the amendment of this House to their amendments to the bill, entitled "An act for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same."

The question thereupon was, whether the House would recede from their disagreement to the amendment of the Senate. The recession was advocated by Mr. RANKIN, and opposed by Mr. TAYLOR and Mr. BUTLER, and after a few further remarks by Mr. GILMER and Mr. COOK, the question was taken, and the House refused to recede from their disagreement, and by a subsequent vote agreed to adhere to the amendment they had previously adopted.

A Message received from the PRESIDENT OF THE UNITED STATES yesterday, was read, and is as follows:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 16th of February last, requesting the President of the United States "to communicate to that House whether any foreign Government has made any claim to any part of the territory of the United States, upon the coast of the Pacific Ocean, north of the 42d degree of latitude, and to what extent; whether any regulations have been made by foreign Powers, affecting the trade on that coast; and how it affects the interest of this republic; and whether any communications have been made to this Government, by foreign Powers, touching the contemplated occupation of Columbia river;" I now transmit a report from the Secretary of State, containing the information embraced by that resolution.

JAMES MONROE.

WASHINGTON, April 15, 1822.

The Message was ordered to lie on the table.

Bills from the Senate, of the following titles, to wit:

1st. An act for the relief of the representatives of John Donnelson, Thomas Carr, and others;

2d. An act to authorize the building of light-houses therein mentioned, and for other purposes;

3d. An act to repeal the fourteenth section of an act to reduce and fix the Military Peace Establishment of the United States, passed the 2d day of March, 1821;

4th. An act to authorize and empower the Corporation of the City of Washington, in the District of Columbia, to drain the low grounds on or near

the public reservation, and to improve and ornament certain parts of such reservations; and

5th. An act for the relief of the legal representatives of Greenberry H. Murphy;

Were, severally read the first and second time, and committed, the *first* to the Committee on Private Land Claims; the *second* to the Committee on Commerce; the *third* to the Committee on Military Affairs; the *fourth* to the Committee for the District of Columbia; and the *fifth* to the Committee of Ways and Means.

The bill from the Senate, entitled "An act to perfect certain locations and sales of public lands in Missouri," was read the third time, and passed.

An engrossed joint "resolution providing further security in the transmission of the public mails," was read the third time and passed.

LAND OFFICE AT HUNTSVILLE.

Mr. MOORE, of Alabama, submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House a statement showing the amount of public money for which John Brahan, late receiver of public moneys at the land office at Huntsville, was indebted to the Government at the time he was dismissed from office; the amount of public money in the hands of said receiver, at the end of each quarter of every year, from the 1st of January, 1817, till the time of his dismissal; all information obtained or received by the said Secretary, as to the use the said receiver made of said money; copies of all letters and instructions from the Department to the said receiver within the said period; all correspondence in the possession of the Department, and other information obtained by the Secretary thereof, in relation to any improper conduct, violation of official trusts or omission of duty on the part of said receiver; together with a statement of the time at which the Secretary was first notified or had reason to suspect such improper conduct, violation of official trust, or omission of duty; the measures adopted to recover said money, (if any;) the time when they were commenced; what agent was employed for that purpose; what he accomplished; the compensation allowed him for the same; if any mortgage or deed of trust on land has been given—what land? the price at which it was originally sold by the Government; whether, in the opinion of said Secretary, the valuation of the land has depreciated? and, if so, whether, making all due allowance for such depreciation, the said debt is well secured to the Government; who are the said receiver's securities; in what sum bound; and what proceedings have been instituted against them?

Mr. MOORE said the number of abuses which have taken place under the law, operating upon those who have the custody of public money, and the injury Government has sustained have become so extensive and alarming, that I presume these circumstances will afford a sufficient apology for the call on the Treasury Department for the information embraced by this resolution. This information is necessary, because report varies as to the amount of the injury Government has sustained in this particular case, from \$83,000 to \$160,000.

This resolution also requires information as to

the amount of money in the hands of the Receiver, at the end of each quarter, from 1817, till dismissed from office. This information I have sought, with a view, that if the law, as it exists at present, is so lame as not to require returns to be made by the Receiver to the Secretary of the Treasury, as to the amount of money in his hands until it has amounted to such an enormous sum, and thereby put it in his power to commit such fraud and abuse, I wish to make it the foundation for a modification of the law in this respect.

Again, sir, I wish this information in relation to the amount of money in the hands of the Receiver at the end of each quarter, because it is probable the amount for which this officer has failed to the Government, is precisely the amount he stands indebted to the Government for purchases of public land. And if this should be the case, sir, it will prove the necessity of enacting a law restraining the receivers of public moneys from becoming purchasers of public lands at any sale in which they have an immediate agency.

Mr. Speaker, many of the difficulties and misfortunes which have visited the citizens who have been purchasers of public land in the State which I have the honor to represent, have their origin in this source. Your public officers, sir, and public agents, intrusted to sell your land, become land speculators. They purchase individually, and join large companies formed for the purpose of speculation. They bid on their credit with the Government against the honest man's purse—no money required to be paid by them. The consequence of which is, that the actual improver of the soil, the respectable planter who has placed his affections on a spot with a view of making it a home, by which to raise his family, is driven from your country. Yes, sir, the honest yeomanry of the country, whose intentions were to settle and improve the lands, and in whom it is properly said exist the very bone and sinew of the Government, who protect and defend the country, these are driven away, sir, and foreign speculators claim the land in their place. Sir, one object is to prevent these evils in future, and by restraining these agents from purchasing at their own sales, to give the honest planter, and the settler on public land, a fair opportunity of becoming purchasers, and obtaining the possession of that spot which has been rendered valuable by their own labor. These, Mr. M. said, were some of the prominent reasons which influenced him in the introduction of this resolution.

The resolution was ordered to lie on the table one day.

MILITARY PEACE ESTABLISHMENT.

The House then went into a Committee of the Whole on the state of the Union, on the bill in addition to the act to reduce and fix the Military Peace Establishment.

The question recurred upon striking out the second section of the bill, which was carried; and on motion of Mr. SMITH, of Maryland, the third section was also stricken out.

Mr. SMITH, of Maryland, also moved to strike

out that part of the fourth section which provided to reduce the Quartermaster General to the rank of a colonel; and, after a few remarks by the mover, the question was taken, and the motion was negatived.

Mr. TRACY moved to strike out the subsequent part of the same section, which provides for the abolition of the offices of two quartermasters, and the question being taken thereon, it was carried.

Mr. WOODCOCK, after a number of appropriate remarks, submitted the following amendment, as a second section to the bill:

SEC. 2. *And be it further enacted*, That it shall be the duty of the President of the United States to cause to be consolidated and arranged the companies and regiments of infantry and artillery, so as to form four regiments of infantry, consisting of ten companies each, and two regiments of artillery, consisting of ten companies each, with the necessary regimental staff to each regiment; and to cause the surplus or supernumerary officers, non-commissioned officers, and musicians, to be dismissed from service, from and after the — day of — next.

A very general discussion ensued upon the amendment, which extended to the general policy of the present Military Establishment of the country; and in which the amendment proposing to reduce and consolidate was supported by Messrs. WOODCOCK, CANNON, GILMER, WRIGHT, and RHEA; and opposed by Messrs. POINSETT, WOOD, McDUFFIE, COOK, TATNALL, and EUSTIS; when the question was taken, and the amendment negatived—ayes 62, noes 95.

Mr. EUSTIS moved to strike out the sixth section of the bill, in relation to medicines, surgical instruments, and other medical and hospital supplies; and the question thereon was taken without debate, and carried without division.

The subsequent sections of the bill, to the 10th inclusive, after having sustained a variety of modifications and amendments in their details, were agreed to.

Mr. POINSETT moved to strike out the 11th section, which provides for discharging the supernumerary officers and enlisted men of the Ordnance department; but the motion was negatived.

The 11th and 12th sections (being the residue of the bill) having been gone through with, and the blanks filled—

Mr. HARDIN submitted, as an additional section, an amendment, the purport of which was to repeal all such acts, orders, rules, and resolutions, as have allowed to the officers, and persons of the Army, or at the Military Academy at West Point, commutation for servants' hire, subsistence, or clothing; and the question thereon being taken, it was carried. The Committee then rose and reported the bill as amended, and the House adjourned.

THURSDAY, April 18.

Mr. KENT, from the Committee for the District of Columbia, to which was referred the bill from the Senate, entitled "An act to authorize and empower the Corporation of the City of Washington,

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in the District of Columbia, to drain the low grounds on and near the public reservations, and to improve and ornament certain parts of such reservations," reported the same without amendment, and it was ordered to lie on the table.

Mr. FLOYD submitted the following resolution, viz :

Resolved, That the President of the United States be requested to cause to be communicated to this House, if not injurious to the public good, any letter or communication which may have been received from Jonathan Russell, Esquire, one of the Ministers of the United States, who concluded the Treaty of Ghent, after the signature of that treaty, and which was written in conformity to the indications contained in said Minister's letter, dated at Ghent, 25th December, 1814.

The resolution was ordered to lie on the table one day.

On motion of Mr. McLANE, the Committee of the whole House on the state of the Union, to which is committed the bill to render permanent the Naval Peace Establishment of the United States, were discharged from the consideration thereof, and it was recommitted to the Committee on Naval Affairs.

The House took up, and proceeded to consider, the bill from the Senate, entitled "An act to abolish the United States trading establishments with the Indian tribes." Whereupon, it was ordered that the bill be committed to the Committee of the whole House to which is committed the bill of this House to regulate the intercourse with the Indian tribes within the United States and the territories thereof.

A motion was made by Mr. HEMPHILL, that the Committee of the whole House to which is committed the bill for the preservation and repair of the Cumberland road, be discharged from the consideration thereof, and that it be committed to the Committee of the whole House on the state of the Union; which motion was disagreed to by the House.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for ascertaining claims and titles to land within the Territory of Florida;" in which bill they ask the concurrence of this House.

Mr. GORHAM's resolution, laid on the table yesterday, calling for information respecting the French ship *La Pensée*, was taken up, and adopted.

The resolution submitted yesterday by Mr. MOORE, of Alabama, calling for information respecting certain transactions in the Huntsville Land Office, was also taken up, and after a few remarks by MOORE, the same was adopted.

Mr. RICH submitted the following resolution :

Resolved, That the 69th section of the rules and orders of the House be expunged, and the following substituted in lieu thereof, to wit :

Exclusive of the "Committee of the Whole on the state of the Union," there shall be three committees of the whole House, to wit : One on bills and other subjects of a public or general nature ; one on private or local bills ; and one on subjects of a local or private nature, upon which unfavorable reports shall have been made by a committee ; and when a subject shall

have been referred to a Committee of the Whole, it shall be assigned to the appropriate committee by the Speaker ; and unless otherwise specially ordered, shall be entered on the calendar for the next succeeding day.

The House having resolved into either of the said committees, the several subjects referred to it shall be announced by the Chairman, in the order in which they stand upon the calendar ; and any number may, in the discretion of the committee, be considered at the same sitting. But no subject shall be considered, except on the motion of a member, seconded by a majority of the committee : *Provided*, That the House may specially resolve itself into a Committee of the Whole, upon any subject, which a committee shall previously have refused to consider.

The resolution was ordered to lie on the table one day.

Mr. VAN WYCK moved to take up the motion to print five thousand extra copies of the report of the Committee of Retrenchment, but the motion was negative, yeas 59, noes 64.

Pursuant to notice, Mr. COOK moved for the consideration of the report of the special committee appointed on the subject of inspecting the Western Land Offices ; but the House refused to consider the same.

Mr. WRIGHT moved that the House proceed to the consideration of the bill in relation to the escape of fugitives, slaves, &c. ; but, the question being put, Mr. W.'s motion was negative.

A bill from the Senate to ascertain claims and titles to land in the Territory of Florida, was twice read and referred.

The House then proceeded to the consideration of the bill in addition to an act to reduce and fix the Military Peace Establishment.

The question recurred upon concurring with the Committee of the Whole in their amendments to the bill ; but, after a few prefatory remarks, Mr. TATNALL moved that the bill, with the amendments, be laid on the table—which was agreed to.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole, on the bill making further appropriations for the military service of the United States for the year 1822, and for other purposes.

Mr. COCKE moved to strike out the appropriation for Fort Delaware, but, after a few explanatory remarks by Mr. SMITH, of Maryland, the motion was withdrawn ; and the appropriation for that fort, and for Forts Washington and Monroe, were respectively agreed to.

Mr. CHAMBERS moved to strike out the appropriation of \$50,000 for Fort Calhoun.

This motion gave rise to a discussion which spread into a wide debate, and, after thirty-one speeches had been made thereon by Messrs. CHAMBERS, WALWORTH, FLOYD, F. JOHNSON, TRIMBLE, WARFIELD, COCKE, and COLDEN, in favor of the motion, and by Messrs. BASSETT, MERCER, SMITH, of Maryland, LITTLE, MCCOY, TOD, BRECKENRIDGE, POINSETT, NELSON, of Maryland, WRIGHT, BAYLIES, and SERGEANT, against it, the Committee, before any question was taken thereon, rose and reported progress, and the House adjourned.

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FRIDAY, April 19.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act to amend the act granting the right of pre-emption to certain settlers in the State of Louisiana, and for other purposes," reported the same with amendments. The bill and amendments were ordered to lie on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act for the relief of the legal representatives of Greenbury H. Murphy," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. FLOYD's resolution, submitted yesterday, calling for information from the Executive in relation to the correspondence of Jonathan Russell, Esq., Minister of the United States, in concluding the Treaty of Ghent, was taken up and adopted.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives :

I communicate to the House of Representatives copies of sundry papers having relation to the transactions in East and West Florida, which have been received at the Department of State since my Message to the two Houses of Congress, of the 28th of January last, together with copies of two letters from the Secretary of State upon the same subject.

JAMES MONROE.

WASHINGTON, April 18, 1822.

The Message was ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, informing the House that the information called for by the resolution of this House, of the 10th instant, in relation to the sales of public lands in each of the States and Territories, and the price at which the same was sold, cannot be furnished until the next session of Congress; which letter was ordered to lie on the table.

THE VINE AND OLIVE.

The bill from the Senate supplementary to the act to set apart and dispose of part of the public lands to encourage the cultivation of the vine and olive, was read a third time.

Mr. RANKIN presented a variety of considerations in support of the passage of the bill, and replied to inquiries made by Mr. HILL and Mr. WALWORTH.

Mr. GILMER opposed the bill, on the ground that it enabled the purchasers and occupiers of certain parts of the land to hold the same at two dollars per acre, when they were worth forty, and the residue of the lands would be useless to the United States.

Mr. COOK was also opposed to it on the same ground, and he added that the individuals who entered into the association well understood the terms of the contract, and there was no good reason why it should be departed from.

Mr. TAYLOR was in favor of the bill on the ground that it was necessary to carry into effect the object for which the grant was originally

made. To encourage the cultivation of the vine and olive was the primary object of the grant, and, without the provision of this bill, he believed that object could not be attained.

Mr. GILMER moved that the bill be recommitted to the Committee on the Public Lands. On this motion the merits of the bill were incidentally discussed by Messrs. GILMER and ALEXANDER SMYTH, in favor of the recommitment, and by Messrs. RANKIN, WALWORTH, MOORE, of Alabama, MERCER, and RHEA, in opposition to it.

Mr. COOK expressed himself satisfied with the explanation that had been given by the gentleman from Mississippi, (Mr. RANKIN,) and hoped the bill would be adopted in its present shape.

The motion for recommitment was negatived; and the bill was finally passed and returned to the Senate.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill making further appropriations for the support of the Military Establishment of the United States, for the year 1822.

The question recurred upon striking out the appropriation for the erection of Fort Calhoun, on the Chesapeake.

The debate was opened by Mr. BASSETT in opposition to the motion. He viewed the facts connected with the progress of the work, and replied to the observations made yesterday by the gentleman from Kentucky, (Mr. TRIMBLE.) He thought we were not departing from the economy of Jefferson, but on this subject were following with unequal steps the policy which that statesman had recommended. He dwelt upon the calamities that might ensue to the country in the result of an unsuccessful naval conflict with an enemy, if we had not fortifications to shelter a retreat, or to afford protection to our cities, and expatiated at length upon the peculiar importance and expediency of the fort in question.

Mr. COLDEN made a few remarks on the subject, which could not be heard by the reporter.

Mr. BALDWIN did not rise to make any remarks on the subject of the specific appropriation now proposed, but only to reply to observations of the gentleman from Kentucky, (Mr. HARDIN,) yesterday, and he explained fully and at length the circumstances in relation to the alleged excess of expenditures over the appropriations of the last year.

After a few queries by Mr. MALLARY, and an explanation by Mr. BASSETT—

Mr. STERLING, of New York, took the floor, and adverted to the charge made yesterday upon the Secretary of War, of transcending the appropriations of last year; and upon the First Clerk, of participating in the contract for the works at the Rip Raps, and of injuring the public interest thereby. Mr. S. went into a particular examination of the subject, and referred to documents, by which he contended it was fully shown, that, instead of transcending the appropriation, the Secretary of War had kept within it by more than

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fifteen thousand dollars. And in respect to the Chief Clerk, Mr. S. remarked that the gentleman (Mr. COCKE) who made the statement was appointed in 1819 chairman of a committee to investigate the subject, and had shrunk from the task of reporting upon it. Mr. S. contended that the contract was fairly made; that the Government tested the expense by experiments; that the owners of the quarries were notified and consulted; that there were five bidders for the contract; that the lowest terms were accepted; and that the contractor afterwards refused to extend the contract on similar terms.

Mr. COCKE said, that the statement made by the gentleman from New York, that the committee had shrunk from an investigation of the case of Mix's contract, &c., on a former occasion, was not founded on fact as regarded himself, (Mr. C.) He never had shrunk from any duty that he had to perform, and he never would do so. The committee which had been alluded to, after two sittings, never could be got together again; which fact, Mr. C. said, he did at the time communicate to the House; and had he known that he could have procured an addition to the committee by a motion to that effect, he certainly would have applied to the House for that purpose. Mr. C. repeated what he had before stated, that the contract in question was made without a previous publication of it; that Christopher Vandeventer was, when the committee made the investigation, from his own acknowledgment, owner of one-half of the contract, for which he gave one hundred dollars; and Mix and Jennings each owned half of the remainder; and (as he understood from gentlemen in this House, from the State of New York) Elijah Mix was not, at the time of making the contract, worth one hundred dollars. And Mr. C. appealed to those gentlemen for a confirmation of the fact. From all the circumstances attending the contract, Mr. C. repeated (as he had before said) he did not believe the Government had had justice done to it.

Mr. HARDIN disclaimed having made any charge or accusation on any department, but contended that the statements he had made were correct, and that the gentleman from New York (Mr. STERLING) had misconceived the propositions he had advanced.

Mr. McDUFFIE replied at length to the remarks made yesterday by the gentleman from Kentucky, (Mr. HARDIN,) and took a wide range of remark, animadverting upon the report of the Retrenchment Committee, (so called,) which he contended was altogether incorrect, and defending the character and policy of the present Administration, in a speech of nearly an hour.

Mr. HARDIN replied *in extenso* to the observations of the gentleman from South Carolina, (Mr. McDUFFIE,) and defended the report of the Committee of Retrenchment, by reference to a variety of documents and estimates.

Mr. SMITH, of Maryland, made a few further observations upon the subject of the proposed appropriation, and also pointed out what he deemed to be an error of five hundred and twenty-one

thousand dollars in the report of the Committee of Retrenchment.

Mr. WHIPPLE (a member of the committee) explained, and contended that the mistake just pointed out did not exist.

Mr. RHEA expressed his sentiments in favor of the appropriation.

Mr. McDUFFIE rejoined to the remarks of the gentleman from Kentucky, (Mr. HARDIN,) and reviewed the various topics that had been introduced into the discussion.

Mr. HARDIN replied to the observations of the gentleman from Maryland, (Mr. SMITH,) and also animadverted upon the remarks of the gentleman from South Carolina, (Mr. McDUFFIE.)

Further remarks were made on the subject by Messrs. SMITH of Maryland, F. JONES, ROSS, and H. NELSON; when the Committee rose, reported progress, and then the House adjourned.

SATURDAY, April 20.

Ordered, That the Committee on Private Land Claims, to which was referred the bill from the Senate, entitled "An act for the relief of the representatives of John Donnelson, Thomas Carr, and others," be discharged from the further consideration thereof, and that it be referred to the Committee on the Public Lands.

Ordered, That the Message of the President of the United States of the 17th instant, communicating a correspondence between the Secretary of State and the Ministers of Great Britain and Russia, relative to the claims of those Governments, respectively, to certain parts of the north-west coast of America, be referred to the committee appointed on the 10th of December last "to inquire into the expediency of occupying the Columbia river and the territory of the United States adjacent thereto; and of regulating the trade with the Indian tribes."

Mr. RICH gave notice that he should, on Monday next, call for the consideration of a resolution by him heretofore submitted for altering the rules of the House, and he presented the following, which he wished to be subjoined thereto, and which lies, of course, one day on the table:

"With the exception of the three last weeks of a session, bills of a local or private nature, and reports of committees, other than bills, on the like subjects, shall, to the exclusion of other business, (the period for going into committee having been reached,) be considered on Friday and Saturday in each week, and on no other days: *Provided*, That this rule shall not prevent the third reading of a bill on any other days, nor the consideration of any subject upon which a Committee of the Whole shall have made a report."

Mr. BASSETT, from the select committee, appointed on that subject, reported a bill concerning the disbursements of public money; which was twice read, and committed to a Committee of the Whole on the state of the Union.

A message from the Senate informed the House that the Senate insist on their disagreement to the amendment proposed by this House to the amendments of the Senate to the bill from this House,

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entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same;" and ask a conference thereon, at which they have appointed managers on their part.

Mr. VAN WYCK renewed his motion to cause five thousand extra copies of the first report of the Committee on Retrenchment to be printed; but the question of consideration being put, it was again negatived—ayes 50, noes 60.

REDUCTION OF PAY OF CONGRESS.

Mr. HARDIN, from the select committee heretofore appointed on the subject of retrenchment of the public expenditure, made a further report thereon, accompanied by a bill.

The report is as follows:

The select committee, to which was referred a resolution directing an inquiry to be made whether any part of the public expenditure can be retrenched without detriment to the public service, and whether there be any offices or appointments in the Government of the United States which have become useless and unnecessary, and can be dispensed with, report, in part, that, from the best estimate which they can make as to the average expenses of both Houses of Congress, taking one session with another, and allowing each session to be as long as the session of the Sixteenth Congress, the same will stand thus, or nearly so:

Pay and mileage of the members -	\$336,975 90
Salaries of clerks, &c. -	17,100 00
Salaries of Doorkeepers and Sergeant-at-Arms -	9,000 00
	<hr/> \$363,075 90

The committee propose to reduce the pay and mileage of the members to six dollars per day, and six dollars for every twenty miles travel; also the pay of the Clerk of the House of Representatives and Secretary of the Senate to \$2,000 each, the principal deputy of each House to \$1,500, and the other deputies to \$1,200; the Doorkeepers and their Assistants, and the Sergeant-at-Arms of each House, to six dollars a day, during the session of Congress; and to each Doorkeeper, for taking care of that part of the Capitol set apart for the use of Congress, \$200 in addition. If the reduction proposed shall be made, it will lessen the expenditure for the Legislative Department about \$90,000 annually; and, after the Seventeenth Congress, the reduction will be equal to near \$100,000. The committee, in proposing to reduce the expenses of the Legislative Department, are influenced by several considerations. They are decidedly of opinion that nothing can save the nation from a system of internal taxation, but retrenchment in the public expenditures, a return to good old principles, which, for some years past, have been lost sight of. The pay of the members of Congress, from the formation of the Government until a few years ago, was what is now proposed by the committee, and money is worth as much now as it had been at any period within the last twenty or thirty years.

It may be objected, that a reduction of the pay of the members will drive all those who are not wealthy out of Congress. To that it may be answered, that the former experiments of the Government in its operation before the compensation was raised, prove the con-

trary; for the best talents in America, since the formation of this Government, have been proud and ambitious of a seat in Congress; besides, money cannot be the object of any man in accepting a seat in Congress. An indemnity is all he can, or ought to expect. It has been alleged by some that the pay of the members should be so high as to make them entirely independent of the influence of Executive patronage. If there be any thing in that argument, this answer may be given—that the committee are fearful that eight dollars a day would not answer the desired purpose. Without going further into the discussion of this question, the committee are unanimously of opinion that, in the great, and good work of retrenchment, Congress ought to be the first to set an example to the balance of the nation, and begin with themselves. They, therefore, to effectuate the objects pointed out in this report, submit to the House the accompanying bill.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill making further appropriations for the military service of the United States for the year 1822.

The question recurred upon striking out the appropriation for the erection of Fort Calhoun, on the Chesapeake, and the same was put and negatived by a large majority.

Mr. BUTLER, of New Hampshire, moved to amend the section by adding thereto a clause providing that no part of the appropriation should be applied on the contract made with Elijah Mix, on the 25th July, 1818.

Mr. SAWYER was opposed to the proviso, but the reasons which he offered could not be heard by the reporter.

Mr. SMITH, of Maryland, also opposed the amendment. He regarded it as going to declare a dissolution of a contract which Congress had repeatedly affirmed.

Mr. BUTLER contended that the contract was made in contravention of the laws of the United States, and that there was such reason to suspect that there was fraud in the case as would justify us in withholding the appropriation.

Mr. ROSS opposed the proviso, not only on the ground assumed by the gentleman from Maryland, (Mr. SMITH,) but also on the principle that, Congress having recognised the contract, it was now too late to annul it, and he should vote against the amendment, although he had been opposed to the appropriation.

Mr. TOD also made a few observations on the subject, when the question was taken, and the motion negatived by a large majority; and the blank was filled as proposed by the Committee of Ways and Means.

The appropriation for fortifying Mobile Point being under consideration,

Mr. COCKE moved to strike out the section, and to insert in lieu thereof an appropriation for the specific purpose of collecting materials for that fortification. The principle on which he preferred a specific appropriation was, that the money heretofore appropriated for the fortification at Mobile Point had not been applied to that object, but

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had been transferred to Colonel Gratiot, at Norfolk, and he referred to documents on the subject.

Mr. J. S. JOHNSTON contended that the money had been applied to the great object for which it was appropriated, and he examined with minuteness the particular circumstances of the case in question. Mr. J. also adverted to the topics that had been drawn into discussion yesterday, and contended that the question, whether the Secretary had assumed an undue responsibility upon himself or not, ought not to be brought to bear upon the subject.

Mr. COCKE replied, and expressed his dissent to the justification of the Secretary of War which had been urged by the gentleman from Louisiana, (Mr. JOHNSTON,) and again reviewed the positions he had taken on the question.

Mr. SMITH, of Maryland, explained the facts in relation to the origin and changes of the contract for building the fortifications at Mobile Point, and made a general exposition of the subject of fortifications, with an historical sketch of the policy that had been pursued for a series of years, in their erection and extent. He also expressed his acquiescence in the amendment proposed by the gentleman from Tennessee, (Mr. COCKE,) and intimated an opinion that it would be expedient for the United States to abandon the system of erecting their fortifications by contract.

Mr. ALEXANDER SMYTH thought the gentleman from Tennessee (Mr. COCKE,) was mistaken in the facts, and that he had been misled by the similarity of sums to suppose that a transfer had been made of the appropriation for Mobile Point. Mr. S. contended that it was incorrect policy to make specific appropriations to fortifications by name. A sum should be designated by Congress for the general object, and the distribution of it should be left to the Executive Department, and on that department the responsibility should rest, for its correct and faithful disbursement and application. In reference to the alleged transfer, he remarked that the Secretary of War was absent at the time the fiscal arrangement was entered into—that it was done by the President of the United States, the Secretary of the Treasury, and the Chief of the Engineer department. The Secretary of War, said he, probably approved of it subsequently, but the responsibility, whatever it was, seemed to rest upon the President; but the money he believed was fairly expended in the public service, and in pursuance of the act of Congress.

Mr. TRACY was in favor of the amendment, on the ground that it was equivalent to an expression of the intention of the House to discontinue the contract for building the fortification at Mobile Point; from which contract he contended the United States was fairly absolved, for the work was to have been completed in 1821 by the terms of it. He also adverted to the items of the contract, which he thought fully proved that the contract was disadvantageous to the Government, and he was unwilling to continue it further than a legal liability imposed an obligation.

Mr. SMITH, of Maryland, rose to correct what he thought was an error of the gentleman from

Virginia, (Mr. SMYTH,) in relation to the agency of the Secretary of the Treasury in the transaction alluded to, and which he said was limited to the transfer of the money from De Russe to Colonel Gratiot.

Mr. JOHNSTON, of Louisiana, had no expectation that the contract would be fulfilled by the sureties of Colonel Hawkins, and he thought it most expedient to apply the appropriation to the procurement of materials, which was, in his opinion, the only mode in which the great object was most likely to be accomplished. Mr. J. was unwilling to enter into the expediency of the terms of the contract, because that was a point which should be left to those to whom it was by law confided. The dangers of climate, and the dearth of provision, rendered labor higher at Mobile than in the State of New York. The power of appropriation, he contended, was the great moral power of this House, and he differed entirely from the gentleman from Virginia (Mr. SMYTH) in respect to the expediency of making appropriations specific. He also contended it was expedient to prevent the competition of the various parts of the Union, which would bring odium and charge of partiality upon the Executive officers.

Mr. SMYTH, of Virginia, replied, and contended that it was improper for the Government to refuse to fulfil the contract, for if the contractors had violated the contract by non-fulfilment on the one hand, the Government had equally violated it by withholding the stipulated payments on the other. He also animadverted upon the other topics connected with the discussion. He expressed his willingness even to borrow money for fortifications, if necessity required it. For institutions of a perishable nature, he was not willing to make a charge upon posterity; but for imperishable fortifications, built of granite, and calculated to last for eternity, he did not feel that it would be unjust to tax posterity, as they, as well as the present generation, were to participate in the benefits and security they may afford.

The subject was further discussed by Messrs. TRACY, F. JOHNSON, WILLIAMS, of North Carolina, and HARDIN, and opposed by Messrs. H. NELSON, and COOK, when the question was taken, and the amendment was adopted.

Mr. PLUMER, of New Hampshire, moved to fill the blank with the sum of \$30,000 instead of \$50,000, which motion was supported by the mover and Mr. COCKE, and opposed by Messrs. MOORE, of Alabama, JOHNSTON, of Louisiana, and SMITH, of Maryland, when the question was taken thereon, and carried without a division.

After the appropriation for fortifications at the Rigolets, and Chef Menteur, had been carried, Mr. SERGEANT moved to insert a clause to make an appropriation of \$19,000, to complete the Arsenal at Frankfort, Pennsylvania.

The motion was supported by the mover, and opposed by Mr. SMITH, of Maryland, but before any question was taken thereon, the Committee rose and reported progress, and obtained leave to sit again.

The House adjourned.

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Proceedings.

APRIL, 1822.

MONDAY, April 22.

Mr. F. JOHNSON, from the Committee on the Post Office and Post Roads, reported a bill to establish certain post roads, and to discontinue others; which was twice read, and committed.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill relating to Treasury notes; which was twice read, and ordered to be engrossed for a third reading.

[This bill provides: "That, from and after the passing of this act, no Treasury note shall be received in payment on account of the United States, or paid or funded, except at the Treasury of the United States."]

Mr. SCOTT, from the Committee on the Public Lands, to whom was referred a bill from the Senate to enable the holders of incomplete French and Spanish titles to lands in Missouri to institute proceedings to try the validity of their titles, &c., reported the same with sundry amendments; and the bill, and amendments were referred to a Committee of the Whole.

Mr. HARDIN, from the select committee, on the subject of retrenchment, reported, in part, a bill, the object of which is to reduce the Revolutionary pensions, for all grades of rank, from and after a given day in the year 1824, to four dollars per month.

The bill, which, Mr. H. computed, would, if passed, effect a saving of \$900,000 for the first year it got into operation, and proportionably thereafter, was twice read, and committed—Mr. H. giving notice of his intention to call up this bill, and the one previously reported by the same committee, on Wednesday next.

The House proceeded to consider the bill making appropriations to carry into effect a treaty made at Chicago, and a treaty made at Edwardsville. Whereupon, it was ordered that the bill be recommitted to the Committee of Ways and Means.

Mr. BUCHANAN communicated to the House a resolution adopted by the General Assembly of Pennsylvania, requesting, for the reasons therein stated, that the fines imposed on the militia of that State, for non-compliance with certain requisitions of the President of the United States, in the late war with Great Britain, may be transferred to the said State, with power to collect the same; which resolution was referred to the select committee appointed by this House upon the subject of said fines.

On motion of Mr. WARFIELD, a committee was appointed to report the best mode, in their opinion, of giving to the public a full and correct statement of the debates and proceedings of this House; and Messrs. WARFIELD, MERCER, SERGEANT, JONES of Tennessee, and GORHAM, were appointed the said committee.

Mr. SCOTT submitted the following resolution:

Resolved, That the President of the United States be requested to communicate to this House whether any, and, if any, how much revenue has accrued to the United States from the leases of lead mines in Missouri; whether any lease, promise, or agreement, is now in force for any lead mine in Missouri, and the

copies thereof, if in writing, and the substance thereof, if verbal, with all the terms, conditions, and stipulations, written or verbal, as well on the part of the United States, as on the part of the lessee, the quantity of land leased, promised, or engaged, to each person, their names and places of residence, together with the names and places of residence of their securities, if any; whether the said leases, promises, agreements, or engagements, if any, are in force, if not now in force, when will they be completed or put in force; whether such leases, promises, or engagements, have been made with or without public notice, and by whom on the part of the United States, and with whom on the part of the lessees, and their securities, if any. And also a copy of the regulations and instructions, if any have been made, for carrying into effect any law authorizing the leasing of lead mines.

The resolution was ordered to lie on the table one day.

Mr. BRECKENRIDGE endeavored to obtain a hearing of the bill for removing the district court of Kentucky to Louisville, by moving to discharge the Committee of the Whole from the further consideration of it, in order to bring it directly before the House. But the motion was opposed by Mr. J. T. JOHNSON, on the ground that that bill involved something like an affirmation of the propriety of giving to the courts of the United States jurisdiction over interior waters, navigable by boats only. Mr. B. denied that this question was at all embraced in it; but Mr. J. persisted in his opposition—and finally moved to discharge the Committee of the Whole from the bill from the Senate respecting admiralty jurisdiction, as well as that moved by Mr. BRECKENRIDGE. And the question being put in that shape, was decided in the negative. So the House refused to enter into the consideration of either of said bills.

Mr. RICH called for the consideration of a resolution by him submitted on a former day, proposing to alter the rules of the House; but, the question being put, the motion was negatived.

Mr. BURTON called for the consideration of the bill to repeal the existing law for the encouragement of vaccination, and the motion to take it up was agreed to.

Mr. BATEMAN moved to commit the bill to a Committee of the Whole, which motion was opposed by Mr. BURTON, and negatived; when the bill was ordered to be engrossed for a third reading.

Mr. WOODCOCK called for the consideration of the bill to extend the jurisdiction of justices of the peace in the District of Columbia; which was agreed to be taken up—ayes 81.

The bill, on motion of Mr. WOODCOCK, was then recommitted to the Committee on the District of Columbia, with directions to report a bill thereon, pursuant to an amendment that had been adopted by the House.

The SPEAKER laid before the House a communication from the Department of State, transmitting the annual statement respecting passenger ships and vessels; which, on motion of Mr. TOMLINSON, was ordered to be laid on the table.

The House again proceeded to consider the message of the Senate, notifying that they insist

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Mix's Contract for Stone—Military Appropriations.

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on their disagreement to the amendment proposed by this House to their amendments to the bill of this House, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same." Whereupon, it was resolved, that this House do agree to the conference asked by the Senate upon the subject-matter thereof, and that managers be appointed to attend said conference on their part; and Messrs. RANKIN, TAYLOR, and BUTLER were appointed the said managers.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act making appropriations for the support of Government for the year 1822," with amendments; and they have passed a bill, entitled "An act to provide for the selection of a site on the Western waters, for the establishment of a national armory;" in which amendments and bill they ask the concurrence of this House.

MIX'S CONTRACT FOR STONE.

Mr. BUTLER submitted for consideration the following resolution:

Resolved, That a committee be appointed to inquire into the contract between the War Department of the United States and Elijah Mix, of the 25th July, 1818, to report whether the same was made in pursuance of law, and whether the said Mix has performed his covenant; and such other facts as they may deem proper relative to said contract.

In offering this resolution, Mr. BUTLER remarked, that he discovered, on consulting the documents on this subject, that, according to the contract, there was due to the United States the delivery of 150,000 perch of stone on the 1st January last, and that, on that day, there had been actually delivered only 102,437 perches; so that the contract had not been fulfilled on the part of Mr. Mix, and was no longer binding on the United States. Besides, he said, there were, to say the least, suspicious appearances about this contract. No proposals for this contract were publicly invited, by advertisement or otherwise. It was said, too, that Mr. Mix had sold out his contract at a dollar and a half per perch; and Mr. B. said he observed, from the account of contracts laid before the House, that a contract had actually been made by the Government, at Philadelphia, for stone, to be delivered at the Pea Patch, for a dollar and a half per perch, whilst three dollars per perch was paid to Mix. Taking the time, place, and manner of the contract into consideration, and the default of the contractor to fulfil his engagements, he had thought proper to submit this resolution. No appropriation that is made at this session, Mr. B. contended, ought to be expended under that contract.

Mr. McDUFFIE said, he was very glad the gentleman from New Hampshire had introduced this resolution. It was the proper course to pursue in cases of this kind. If there was anything improper in the conduct of any officer of the Government, it was proper to inquire into it, not incidentally in debate, or by *ex parte* statements on this floor, but by judicial investigation. While up, Mr.

McD. said he would state, that, on an investigation, the facts of this case would be found very different from what they had been represented to be. He was authorized to say that, if Mr. Mix had not taken this contract, a loss would have been occasioned to the United States of \$75,000—the contract having been taken by Mr. Mix at half a dollar per perch less than was just about to be contracted for with another person. A great deal had been said about the extravagance of the price of this stone. At this time such a price would be high, but the contract was made in the year 1818, at which time every article was higher than it now is, in consequence of the depreciation of the national currency; which fact ought to be taken into consideration.

Mr. SAWYER said, he had no objection to this resolution; but as for the abrogation of the contract with Mr. Mix, on account of his failure to deliver a stipulated quantity of stone, it was sufficient to say, that, if the allegation were true, the fault lay not with Mr. Mix, but with this House, which reduced the appropriation for fortifications below the amount required by the Secretary of War to comply with existing contracts. For this Mr. Mix was certainly not to blame.

Mr. CAMBRELENG said he hoped the resolution would be adopted. He thought, from the statement which had been made by the gentleman from New York some days since, that the subject required investigation. On one point he begged leave to differ from the gentlemen from South Carolina and North Carolina. He did not think that Government, under any circumstances, ought to have made a contract with Mr. Mix. This opinion was formed from what he had heard from gentlemen on different sides of the House on this subject.

Mr. METCALFE proposed an amendment for giving to the committee power to send for persons and papers. He did not mean to censure the individual who was implicated in this discussion, nor to exonerate him from censure. But he was induced to believe some very satisfactory information might be got on this subject by a resort to oral testimony.

Mr. BUTLER accepted the proposed amendment as part of his motion; and, thus modified, Mr. B.'s motion was agreed to without opposition. And Messrs. BUTLER, METCALFE, and CAMPBELL, of Ohio, were appointed the said committee.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill making further appropriations for the support of the Military Establishment of the United States, for the year 1822.

The question recurred upon the motion of Mr. SERGEANT, to amend the bill by inserting a clause to appropriate the sum of \$19,000 to complete the arsenal at Frankfort, Pennsylvania.

Mr. SERGEANT enforced the expediency of the proposition he had made, to prevent the arsenal alluded to from falling into ruins, and he reviewed at some length the opinions that had been ex-

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pressed on Saturday, by the chairman of the Committee of Ways and Means, (Mr. SMITH, of Maryland.)

Mr. J. S. JOHNSTON replied, in opposition to the amendment, and was particularly adverse to placing the proposition as preliminary to, and in exclusion of, an appropriation to rebuild Fort St. Philip, for the defence of New Orleans, which he observed was the most weak and exposed point in the Union.

The debate was continued with considerable warmth and animation by Messrs. SERGEANT, SMITH, of Maryland, and BALDWIN, when the motion, after some prefatory remarks, by the mover, was withdrawn, with the view of proposing it in the subsequent progress of the bill.

The item for the repairs of the fortifications in the United States being under consideration—

Mr. HILL moved to amend the clause in which it was contained, so as to include about \$2,000 for an appropriation for fortifications at Portland, in the State of Maine.

After a few observations from Mr. J. S. JOHNSTON—

Mr. COCKE moved to fill the blank with the sum of \$15,000. He believed that sum was adequate to the contingencies for fortifications.

Mr. SMITH, of Maryland, and Mr. WALWORTH, respectively, explained the subject, when the question was taken on the largest sum \$22,000, and lost; and, after some further remarks by Messrs. J. S. JOHNSTON and COCKE, the question was taken on filling the blank with the sum of \$20,000, and carried.

Mr. HILL renewed his motion to make a specific appropriation for the repair of the fortification at Portland, in Maine.

The motion was supported by Mr. HILL, and opposed by Mr. SMITH, of Maryland, and Mr. FLOYD, and lost.

The appropriation for the Ordnance department being under consideration, and an item for the purchase of ammunition being included therein—

Mr. COCKE expressed his surprise at such a proposition, as he had learned from the chief of the Ordnance department that the magazines were already crowded with ammunition, and he adverted to the failure of the Executive to reply to a request contained in a resolution of the House at an early period of the session, for information in respect to loans of powder, &c.

Mr. TOD contended that the Executive had furnished an answer to the inquiry to which the gentleman from Tennessee (Mr. COCKE) had alluded.

Mr. SMITH, of Maryland, remarked that the inquiry to which the gentleman from Pennsylvania (Mr. TOD) had referred, was not the same resolution to which the gentleman from Tennessee (Mr. COCKE) had adverted, but he was informed that the department was now employed in collecting the facts necessary to give an answer to it. But, at all events, he thought it necessary to bring that subject to bear upon the present—and after the word "ammunition," on motion of Mr. SMITH,

had been stricken out, the clause, as amended, was adopted.

On the appropriation for the reparation of arms two sums were named, viz: \$11,960 by the Committee of Ways and Means, and 27,585 by Mr. TOD.

In support of the latter sum, Mr. TOD observed, that last year, when the fit of economy came on, it discharged itself on this very appropriation, and, when \$100,000 was asked for, nothing was given. The consequence was, that between three and four hundred workmen, composing nine-tenths of the whole, were dismissed from employment, and were compelled either to beg, or steal, or starve, or work on the public highways at twelve and an half cents per day. He thought, while we kept so many soldiers doing nothing, and while we had a force in the Pacific, that was more expensive than the profits of all that trade would amount to, it was really too much to dismiss these poor fellows, with their leather aprons, from our service, which the public interest required. If there was to be a reduction, he thought it was much better to discharge the band of musicians that were retained, he knew not for what—for he believed it was much the better to part with our fiddlers, than our laborers.

Mr. SMITH, of Maryland, presented a detailed view of the causes that had led the committee to recommend the lesser sum. He stated the repeated inquiries that had been made of the Ordnance department the answers that had been given in relation to the establishment at Greenleaf's Point, which were unsatisfactory in giving any thing like a full and clear exposition of the facts, and from which the committee were disposed to withhold a larger appropriation.

Mr. TOD replied, and observed that the armories, &c., which belonged to the public, were managed with as much economy and fidelity as private establishments, and he was unwilling that the full weight of economy should fall upon those only who performed productive labor for the public.

Mr. WOOD observed that the situation of our arsenals and public stores was very little known. He had at an early part of the session presented a resolution to obtain information on the subject, and the committee to whom it was referred had neglected to report. He had no doubt there was disorder and confusion in that department, and he was not prepared to make any appropriation at all until the House was in possession of more information on the subject. The question was then put on the largest sum, as named by Mr. TOD, and lost; and the lesser sum, as recommended by the Committee of Ways and Means, was adopted.

Further appropriations having been agreed to—

Mr. SERGEANT renewed his motion to appropriate \$19,000 to complete the arsenal at Frankfort, Pennsylvania; and, after a few remarks in favor of the motion by Mr. SERGEANT, and in opposition to it by Mr. SMITH, of Maryland, the question was taken thereon and negatived—ayes 46, noes 49.

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Various appropriations having been gone through with—

Mr. COCKE submitted an amendment to the section, the purport of which was, that no extra allowance should be made to any Governor of a Territory, in consideration of his services as ex officio Superintendent of Indian Affairs.

The proviso was advocated at considerable length by Mr. COCKE, Mr. RANKIN, and Mr. FLOYD, and opposed by Mr. SIBLEY.

Mr. WOOD contended that ex officio services ought not to be entitled to extra compensation; but services that were rendered, not ex officio, but by a Governor only, as an individual appointed for a specific purpose, were fairly entitled to compensation. He thought, therefore, the proviso was too broad, and would lead to unjust results; and he was confirmed in the opinion which he had expressed, by a resolution offered some weeks since, and which had been rejected by the House, that the system of Indian Affairs ought to be renovated and placed under a specific head, and subject to a specific responsibility.

Mr. ROSS moved to amend the amendment by providing that the amendment shall operate prospectively only; and he expressed his reasons in support of the proposition.

Mr. GILMER expressed his sentiments in favor of the proviso offered by the gentleman from Tennessee, (Mr. COCKE,) and opposed to the amendment which had been proposed by the gentleman from Ohio, (Mr. ROSS.)

Mr. MALLARY was also opposed to the amendment, on the ground that it implied a sanction of the course that had been heretofore taken.

Mr. TRACY considered that the principal amendment, offered by the gentleman from Tennessee, (Mr. COCKE,) was unequal and unjust in its operation, as it was retroactive in respect to General Cass, and made no effort to cause the Attorney General and other officers in the Government to refund such sums as they had pocketed, and which essentially depended upon the same principle. He was not disposed to look back and punish some, while immunity is granted to others, and he expressed a high regard for the character of Governor Cass, as a man whose name should not be lightly treated by this country. This expenditure, he thought, had received the sanction of the Government for many years, and properly came within the fund created to compensate for contingent services. An extra allowance for similar services had been paid to his predecessor, Governor Hull, and he (Governor Cass) had therefore a fair right to presume it would be extended to him. Mr. T. contended, that it was in its operation an *ex post facto* law, and ought not to receive the sanction of the House.

Mr. RHEA moved that the Committee rise and report progress, which was agreed to, and in the House the Committee had leave to sit again.

TUESDAY, April 23.

Mr. NEWTON, from the Committee on Commerce, made a report on the petition of Henry

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Lee, accompanied by a bill for his relief; which was read, and committed to a Committee of the Whole.

The House took up and proceeded to consider the resolution submitted on yesterday by Mr. SCOTT, concerning the lead mines of Missouri; which was agreed to by the House.

Mr. ALEXANDER SMYTH laid on the table the following:

Resolved, That leave be given to bring in a bill allowing to persons not residing within the District of Columbia the benefit of the law for the relief of insolvent debtors, in the like manner as the same is allowed to persons residing within the said District.

[The object of this bill will be to abolish the residence of twelve months now required to entitle a person to the benefit of the insolvent act within the District of Columbia.]

On motion of Mr. F. JONES, the House agreed to consider a bill for the relief of Alzira Dibrel and Sophia Hancock, daughters of Samuel Mitchell, by Molly, a Choctaw woman.

Mr. JONES explained the object of the bill, which was to confirm to these persons the title to a tract of land reserved to them by the Treaty of Mount Dexter, between the United States and the Choctaws, concluded in the year 1805.

After which, without further debate, the bill was ordered to be engrossed for a third reading.

A bill from the Senate to authorize the selection of a suitable site for the location of a national armory on the Western waters, was read twice, and committed to the Committee on Military Affairs.

An engrossed bill relating to Treasury notes, was read a third time, and passed, and sent to the Senate.

VACCINATION.

The engrossed bill to repeal the act to encourage vaccination, was also read a third time.

Mr. CONDIOT moved to lay the bill on the table, which motion was negative—ayes 31, noes 64.

The question then recurred upon the passage of the bill, which Mr. TAYLOR required to be taken by yeas and nays, which were thereupon ordered.

Mr. WOOD turned to the act of Congress of 1813, which is proposed by this bill to be repealed, which confers no power or authority on the person named by the President as Vaccine Agent, other than of transmitting and receiving letters free of postage, which, he said, appeared on the face of it so harmless, if not beneficial a provision, he should like to hear some explanation of the objections to it.

Mr. BURTON assigned some of the reasons which had influenced the committee to report this bill. They were of opinion, he said, in the first place, that this subject was one strictly of internal policy, not properly within the province of this Government but of the several States, whose duty it was to regulate every thing relating to health and police generally. He had no objection, if Congress should think proper, to extend the privilege of franking so far that it should be allowed to an agent for

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vaccination for each and every State and Territory; but he was opposed to Congress itself establishing the agencies. In what manner, he asked, had the agency been conducted? In the city of Baltimore, the very seat of it, the small pox, that scourge of the human family, had prevailed to an extent greater than in any part of the United States. Was this not sufficient to convince any man that the institution had not been properly regulated? No man at this day doubted the efficacy of vaccination to prevent the small pox. Why had it not been prevented in that very spot which was the seat of the Vaccine Institution? It was because it was rightfully a subject of State regulation, and could not be properly regulated by the Government of the United States. This very agent, too, had sent the small pox matter into the interior of the country, where in all probability it would not have found its way for forty years, but for this agency. The British army, when it marched through that part of the country forty years ago, last communicated the small pox, and he thought it fair to presume that another foreign army was not likely to march through that country for forty years to come, to introduce it again. We had no wish for the small pox, said Mr. B., but it was sent to us in disguise; and this mistake alone was sufficient reason for the repeal of the law. And, after having done this, the agent came out with an address to the public about some new disease, varioloid he believed he called it, which was calculated to destroy all confidence in the institution, and vaccination itself. Afterwards, finding that this address was not satisfactory, he had come forward and acknowledged that he had sent the small pox matter to North Carolina, and that it was an accident which had never happened before, and in all probability would never happen again. That, Mr. B. said, might readily be. The people who had been killed by it were not killed before, and could not be killed again. The Government of the United States, he added, did not possess the powers which enabled other Governments to legislate efficiently on this subject. In Denmark, for example, the people are compelled to be vaccinated before they can be married, and before their children can be christened they must be vaccinated. But this Government could exercise no such despotic power; all that it could do, constitutionally, in regard to it, and the best thing it could do, was to let the people, who are both able and willing, take care of themselves.

Mr. TAYLOR, of New York, said that the act establishing the agency had been in operation for nine years, and he thought ought not to be hastily repealed. It was true, an unfortunate incident had occurred under the agency, which it was difficult to conceive could have arisen but from some negligence on the part of the agent. But would Congress repeal the law because of this one instance of wrong? If the agent has done wrong, said Mr. T., let him be removed. He had heard this agent, however, spoken of as a man of great attention to his charge, who never failed to procure and keep on hand vaccine matter of the

greatest purity. The most careful man may, from accident or momentary inadvertence, commit a mistake. If that be sufficient cause for his removal, let him be discharged. But, let there remain some institution, at which there is a reasonable probability of obtaining vaccine matter in its purity. Mr. T. said, he had no acquaintance with the vaccine agent; he knew nothing of him but from his letters for several years, and public report, which had produced an impression on his mind favorable to the Doctor. The gentlemen who lived nearer to him were better able to judge of his qualifications than he (Mr. T.) could. But, never, on this or any other occasion, would he repeal a law to get rid of any individual whatever, unless it was in an extreme case.

Mr. BURTON here stated, that it would perhaps save the gentleman some trouble to say, that the President had fully examined the case of the late occurrence in the Vaccine agency, and, being satisfied of mismanagement on his part, had dismissed the agent. The only question, therefore, now was, as to the abstract policy of the law proposed to be repealed.

Mr. TAYLOR said he had not before been apprized of the fact of the agent being dismissed. With regard to the policy of the law, he said there surely might be found in the United States some individual in whom the necessary confidence might be reposed to discharge the duties of Vaccine agent. It did appear to him to be derogatory to the character of the medical profession to suppose, because Congress could not apply municipal regulations to punish the individual for misconduct, they therefore could not properly exercise the power of establishing an agency for vaccination. This subject had been often before Congress since the year 1813, when the law first passed, and much had been said of it; but, as no considerations had heretofore procured its repeal, he hoped it would not now be repealed without due deliberation, &c.

Mr. EDWARDS, of North Carolina, was in favor of the bill. What would be the effect of the institution if permitted to exist hereafter, he could only be enabled to judge from what had been its effect heretofore. If the institution was a necessary one, there would be no objection to its continuance. But, Mr. E. said, his own idea was, that it could not be necessary. The advantages of the vaccine matter, he thought, could be disseminated by individuals in different parts of the country, without the expense which had heretofore attended the procuring it from the agency. Why, then, give to an agent the privilege of franking? Mr. E. considered it a safe principle, if not an axiom in politics, to make no depository of any public trust, unless you can enforce the performance and fulfilment of it. This, Congress could not do in the case of this agency. He hoped the law would be repealed, and that hereafter no person would be permitted to be called the National Agent for Vaccination, by which he could obtain an exclusive circulation of matter through the country, to the destruction of that competition which is the life of trade and of professions.

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Mr. BURTON made some further remarks. All legislation, he said, went upon this principle: that, by possibility, agents may be dishonest, and it is therefore necessary to have some security against their being so. This security the Government of the United States could not take of the Vaccine agent. It was because this Government cannot, and the State governments can, properly regulate this matter, that he wished this law to be repealed.

Mr. CONDUCT said, he apprehended the House were about to act hastily, in repealing a law that has been in operation since the year 1813, and which was enacted with due deliberation. In Europe, such is the confidence in vaccination, as a prevention of small pox, that the Governments compel their subjects, under severe penalties, to be vaccinated. But, under our free Government, no compulsory measures can be resorted to; and he agreed with the gentleman from North Carolina, (Mr. BURTON,) that the State governments are the most competent to legislate upon these subjects. We may, however, lend the aid of this Government by the appointment of an agent to furnish an ample supply of vaccine matter, and distribute it to those who may apply through the Post Office Department, free of postage. When the law now proposed to be repealed was first enacted, in 1813, it was the opinion of many respectable members, that the best plan would be to give the agent a salary to compensate him for his services, and cause him to distribute the matter gratuitously to every applicant. Others, however, doubted the Constitutional power of Congress to apply the public money in this way, and the law now proposed to be repealed was passed. While he would applaud the deep interest and solicitude of the gentleman from North Carolina, for the health and lives of his neighbors, he would ask of the House to pause and reflect, before they decide, under the excited feelings of a moment, to lessen public confidence in the efficiency of a remedy against the greatest scourge which was ever visited upon the human family. Would it not be a matter worthy of inquiry, whether, instead of repealing the law, and thus subjecting the people to the additional expense of postage, it would not be better policy to modify the law so as to authorize the appointment of an increased number of agents in different parts of the country for the more extensive diffusion of the benefits of vaccination? Would it not be good policy so to regulate the Army and Navy as to compel every new recruit, every cadet in the Academy, and every midshipman and marine in the Navy, to be vaccinated? The President of the United States has already dismissed the agent, in consequence of the violent prejudices against him, growing out of his unfortunate mistake in sending the small-pox virus to North Carolina. Is not this a sufficient punishment for a single error? And who among us claims exemption from error? Who among us does not claim the privilege of being mistaken? Mr. C. said, he would venture to assert that fifty thousand souls at least, and more, probably one hundred thousand, have received from this agent the benefits of vaccination, through the instru-

mentality of this law, which you are now about to repeal. He hoped the House would pause and reflect before they decide; and, for the purpose of affording time, he moved that the bill be postponed to the first day of the ensuing session of Congress.

Mr. WHIPPLE, as one of the committee which reported this bill, gave the House his reasons for favoring it. He paid a tribute of respect to the motives of the act of 1813, establishing the Vaccine agency; but did not think that the views of the authors of it had been realized. He stated the actual operation of the act, which had been to tax the people at large for the profit of the agent, who drew it from them by virtue of the monopoly which Congress had thus granted to him. It was in evidence, before the committee, that, under the Vaccine agency, something like forty-five thousand dollars had been drawn, by the agent, from different quarters of the Union. From all the facts, and comparing the benefits received with the cost, &c., Mr. W. said it was doubted by the committee, whether the institution had produced any real benefit to the country. From inquiries made by the committee, it appeared to them that comparatively little good had proceeded from it; and that individual interest would do more on this subject towards the promotion of vaccination, the preservation of matter, &c., if left free to all, than could be done by any legislation by Congress. If the institution were to continue, the committee were of opinion that the law ought to be modified, &c., so as to make the agent more responsible for the performance of the duties understood to be devolved upon him by it.

Mr. WRIGHT adverted to the inconveniences experienced before the discovery and general diffusion of vaccination, to show how important it was to cherish and protect it. He reviewed the evils of the small pox, and the great blessing, comfort, and cheapness, of vaccination, as a preventive. He expressed his doubts, indeed, whether the small pox had been sent to North Carolina by Dr. Smith, who had every motive to prevent his sending it; and thought it more likely to have been introduced by the North Carolina doctors, whose interest it was to have the people as sick as they could be. The nation, he concluded, was bound to diffuse such a blessing as vaccination by every possible means; and he therefore hoped that this bill would not pass, but that another agent would be appointed, &c.

Mr. TOD asked, whether it was not a fact that a question had been raised as to the efficacy of vaccination? Whether there were not some doctors, or quacks, who pretend that vaccination is wholly useless? He knew, he said, that there were people in this country who went about preaching to that effect, and that the old fashioned small pox was the only thing at last. Now, if you repeal this law, said Mr. T., will it not be supposed that the whole Legislature has lost confidence in vaccination? He asked another question—whether vaccination had not, since its introduction among us, saved a great many lives? Whether there did not die of small pox, before the introduction of

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vaccination, more persons in six months than now die in ten years? If this question was answered in the affirmative, he would ask another—whether the question of the repeal of the act establishing the Vaccine agency be not a very serious one? He knew that Congress could not compel an agent to perform the duties, by punishment for failure, &c., but, he asked, if the accident had not happened in North Carolina, should we have ever heard of the repeal of that law? If so, ought the House, from a momentary irritation, to repeal the law? If we are to legislate on this principle, said Mr. T., it is very well we have not authority to regulate steamboats; for, not long ago a steamboat burst her boiler on the Mississippi or the Ohio, and killed or wounded sixteen persons. A horrible accident! And if this House had had the power to regulate steamboats, and any member from the West had moved, in consequence of this accident to his constituents, to prohibit their use altogether, Mr. T. contended it would have been just as reasonable as to pass this bill, &c. He repeated the idea that Congress ought not, at this moment, to throw its authority into the scale against vaccination; and he therefore hoped the bill would not pass.

Mr. BURTON said, that no one doubted the efficacy of vaccination. It was believed in before the act of 1813 passed, and would be equally confided in after its repeal.

Mr. EUSTIS briefly delivered his sentiments on the subject of the bill. He was opposed to the postponement, because the office of agent being now vacant, the question to abolish it could be decided on the abstract question of its utility, without reference to the individual filling it. The whole subject of vaccination, he said, was always, in his opinion, one of those which are best left to the States, the medical faculty, and the people. The motives of the law, he knew, were benevolent, and he would not say that it might not have had some little beneficial effect. But it constitutes a monopoly, and discourages medical men, who are acquainted with the subject, from exerting themselves in promoting vaccination. The very reason that had been urged for retaining the agency, viz., that this agent would preserve the vaccine matter when others would not, was the very reason why he objected to it. All physicians ought fully to understand the subject; and they will make it their business to do so when it becomes their interest, by the abolition of the present monopoly. If the exclusive care of it be given to one, it will never be generally understood. In the general doctrine of the efficacy of vaccination, all Europe and this country were agreed. There is, however, in man a propensity, when a thing is done to his hand to take it as he finds it; and our physicians, therefore, have not of late sufficiently attended to this important subject. The very debate of to-day shows that this ought never to have been a subject of legislation. It is professional entirely; and it could not be expected that the President should be competent to select for the agency, if suffered to continue, the person best fitted for it by professional acquirements. This Government, Mr. E.

said, was instituted to collect revenue, to provide for the public defence, and pay the public debts. How far it had departed from that limited sphere of action he would not now inquire, but it was certainly at fault when it undertook to regulate any part of the practice of medicine. After some other remarks, Mr. E. said, in conclusion, that it was very important that the medical faculty should be taught to take and preserve this matter, and that they never would do so unless this agency was abolished.

Mr. WOOD professed himself satisfied that the General Government ought never to have undertaken to legislate on this matter, and that the act establishing the agency ought to be repealed.

The question was then taken on postponing the bill to the next session, and decided in the negative.

The question recurred on the passage of the bill, and was decided in the affirmative—yeas 102, nays 57, as follows:

YEAS—Messrs. Alexander, Archer, Barber of Connecticut, Bassett, Baylies, Blackledge, Blair, Breckenridge, Brown, Burrows, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Cassidy, Chambers, Cocke, Conkling, Conner, Crudup, Cushman, Dane, Darlington, Denison, Dwight, Edwards of Connecticut, Edwards of North Carolina, Eustis, Findlay, Floyd, Garnett, Gilmer, Gist, Gross, Hall, Hardin, Harvey, Hill, Hobart, Holcombe, Hooks, Hubbard, F. Johnson, J. T. Johnson, Jones of Tennessee, Keyes, Leftwich, Long, McCarty, McLane, McNeill, McSherry, Matson, Mattocks, Metcalf, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Alabama, Murray, Nelson of Massachusetts, New, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Read of Massachusetts, Reid of Georgia, Rich, Rochester, Ross, Russell, Sanders, Sawyer, Arthur Smith, Alexander Smyth, J. S. Smith, Stevenson, Stewart, Swan, Tannall, Tomlinson, Tucker of South Carolina, Tucker of Virginia, Upham, Van Rensselaer, Van Wyck, Walker, Walworth, Whipple, Williams of North Carolina, Williams of Virginia, Williamson, Wood, Woodson, and Worman.

NAYS—Messrs. Baldwin, Ball, Barber of Ohio, Bigelow, Borland, Buchanan, Colden, Condict, Cook, Crafts, Cuthbert, Durfee, Eddy, Edwards of Pennsylvania, Farrelly, Gebhard, Hawks, Hendricks, Jackson, Kent, Lathrop, Lincoln, Litchfield, McCoy, Malary, Mercer, Milnor, Mitchell of South Carolina, Montgomery, Moore of Virginia, Morgan, Nelson of Maryland, Nelson of Virginia, Newton, Patterson of New York, Poinsett, Reed of Maryland, Rhea, Rogers, Russ, Ruggles, Scott, Sergeant, Sloan, S. Smith, Sterling of Connecticut, Sterling of New York, Stoddard, Taylor, Tod, Tracy, Vance, Warfield, White, Whitman, Woodcock, and Wright.

So the bill was passed, and sent to the Senate for concurrence.

APPROPRIATION BILL.

The amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government for the year 1822," were read, and committed to the Committee of the whole House on the state of the Union.

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[Mr. TRIMBLE made an attempt to get the bill for erecting toll-gates on the Cumberland Road, referred to the same committee, but failed.]

The House then went into a Committee of the Whole on the state of the Union, on the aforesaid amendments.

The amendment by the Senate to appropriate \$1,000 for the Public Library, was concurred in; and the further amendment to provide for the usual payment to clerks in the Treasurer's department being under consideration, and a letter having been read from the Secretary of the Treasury, decidedly recommending the same, Mr. COCKE opposed the concurrence, on the ground that the number of clerks had increased, whilst the extent of their duties had diminished.

Mr. TUCKER, of Virginia, and Mr. SMITH, of Maryland, expressed their sentiments in favor of the concurrence, when the question was taken thereon, and carried—ayes 65, noes 46.

The amendment to appropriate \$40,000 for surveying certain public lands in 1821, was disagreed to without discussion.

The amendment proposing an additional appropriation to run the boundary line (to carry into effect the treaty) between this country and the now, or late, dominions of Spain, being under consideration—

Mr. COCKE opposed the concurrence, on the ground that, if this appropriation should be made, a commissioner would doubtless be appointed for that service by our Government, whether he is allowed to go on and perform his duties or not; and he thought it would be inconsistent with our own act, by which we had recognised the independence of Mexico, to make at this time an appropriation to run a line under authority of a treaty with Spain, when, by that act, we have said that she no longer retains any authority over that province.

Mr. WALWORTH was also opposed to a concurrence, and, in addition to the remarks from the gentleman from Tennessee, (Mr. COCKE,) he thought an appropriation at this time would be altogether unnecessary—and by the next year, should the Mexican Government, having become tranquilized and settled, agree to run the line between this Government and that, it will then be time enough to make the appropriation.

Mr. BURTON advocated the appropriation on the ground that the Government had entered into a solemn obligation with Spain to run the line, and an agent for that purpose had been already appointed by the Government of that kingdom. Should Mexico interfere and prevent the execution of that engagement, it would then become a matter merely between Mexico and us. We have only to perform our engagements, and he hoped, especially under the circumstances of our present relations with the Spanish Government, that no additional or real cause of complaint would be given to that Power.

Mr. FLOYD remarked that he was not in the House at the time this bill was originally passed; but he thought it very singular to appropriate a sum for the recognition of Mexican independence,

and at the same time to appropriate another sum to run a line between that country and this, under authority of a treaty with Spain, from which we admit that province has been severed. He thought it would almost render us ridiculous to adopt such a course. He was also opposed to the measure, on the ground that it was an amendment which came from the Senate at a late period of the session; and he referred to a similar case in the last year, in which the very existence of a treaty was unknown to this House, until it was called on, by an amendment from the Senate, to make an appropriation for carrying it into effect. Mr. F. also thought there would be no violation of good faith, on the part of this Government, in withholding the appropriation, inasmuch as Spain had omitted, for a longer time than the treaty stipulated, to appoint the officer to accomplish that object.

Mr. FULLER could see no advantage in making the appropriation, even should Mexico permit us to go on in running the line; but he thought there was danger that, in attempting it, we should come into collision with that Government. It seems to be inviting a controversy which we ought to be most solicitous to avoid.

Mr. A. SMYTH made a few remarks on the subject, in the course of which he expressed the opinion that, whenever the line was run, it should be in conjunction with Mexico, and not with Spain.

Mr. WOOD observed that a great part of the line which was to be run, was between this Government and Texas; that Texas was a distinct province from Mexico—not under its present jurisdiction—and we had no knowledge that it would finally accede to or connect itself with the new form of government which had been adopted in the late provinces.

Mr. POINSETT contended that independent Mexico would be bound by the line that should be run between that province and the United States, under our treaty with Spain; and he thought it was incumbent upon us to preserve inviolate the faith which we had pledged in that treaty.

Mr. COCKE moved to amend the amendment, so as to provide that the commissioner and surveyor should not receive any compensation, until they should have entered on their respective duties. The motion prevailed; and, after further remarks on the amendment of the Senate, as amended, in which Mr. NELSON of Maryland, Mr. FLOYD, Mr. RHEA, Mr. BURTON, and Mr. FARRELLY, participated, the question was taken on agreeing to the same, and decided in the negative—ayes 57, noes 69.

So the House disagreed to the amendment of the Senate, and subsequently to the amendments appropriating compensation to the Commissioner of Public Buildings; increasing that of William Elliot, an assistant employed in ascertaining the longitude of the Capitol; and for repairs to the Cumberland road.

On the latter question a debate of some length arose: in which the concurrence was advocated by Mr. STEWART, and incidentally by Mr. TRIMBLE, and opposed by Mr. STEVENSON and Mr. BALDWIN.

The first amendment of the Senate to the proviso which directs a retention of salaries, &c., from those who are in arrears to the Government, being under consideration—

Mr. H. NELSON rose, he said, to vindicate the character of this House and of the Chief Magistrate of the country from the aspersions which he understood were in circulation out of doors in reference to this subject. It had been rumored that this proviso was introduced for the purpose of preventing the Chief Magistrate from receiving his salary, on the ground of alleged arrears in his account which accrued from his former mission to the Court of France. To repel that imputation, so unworthy of the dignity of the House, he had addressed a letter to the Comptroller of the Treasury for information on the subject; from whom, in reply, he had received a copy of the account current with Mr. Monroe, which he wished might be read to the House, to show that no arrearages were due from the Chief Magistrate.

The letter of the Comptroller was read by the Clerk, and a letter from Mr. Monroe, with a reply, were also presented to be read, when—

Mr. STEVENSON rose, and said, he thought the reading was superfluous. He was satisfied on the subject, and had heard no whisper of such a rumor as his colleague had mentioned.

A number of gentlemen of the House also disclaimed having heard any such rumor.

Mr. COCKE averred, that, when he made the motion, he had no reference to any individual of the whole human family. He was led to it from examining the published list of unsettled balances.

Mr. NELSON said that he was far from imputing the origin of the rumor to any member of the House; and it was only for the purpose of vindicating the character of the House from such an imputation that he had addressed the Committee on the subject. Mr. N. insisted upon the reading of the letters, on which a question of order arose, and the reading was decided to be not in order.

The question was then taken on agreeing to the amendment of the Senate, and lost.

A subsequent amendment of the Senate to the same proviso, stipulating that it should not extend to such defaulters as became so by the depreciation of Treasury notes, was agreed to.

The Committee then rose, and reported their proceedings.

In the House, the respective amendments agreed to in Committee of the Whole were agreed to; and the disagreements to the amendments of the Senate, which the Committee of the Whole had reported, were also confirmed.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill making further appropriations for the military service of the United States, for the year 1822.

The question recurred upon the amendment of Mr. ROSS to the amendment of Mr. COCKE, limiting allowances to the Governors of Territories for extra services as Superintendents of Indian

Affairs, to future operation, without reference to the past.

Mr. LINCOLN opposed the amendment, on the ground that, if such allowance should be refused, it would create the necessity of a special local agency, at great expense, to do those duties which the Governor now performs. Mr. L. took an extended view of the subject, in the course of which he was called to order by the Chairman of the Committee, as wandering from the point under consideration.

Mr. LINCOLN appealed from the decision of the Chair, and the decision of the Chair was overruled by the Committee. Mr. L. then pursued his remarks, and continued the debate for nearly an hour, in support of the character and services of Governor Cass, and of the inexpediency of adopting the present motion.

Mr. GILMER replied to the remarks of the gentleman from Maine, (Mr. LINCOLN,) in an animated speech of considerable length, and adverted with historical minuteness to the expenditures referred to. He pointed out the abuses in the Indian department, which, in his opinion, required correction; disclaimed any personal reference to Governor Cass, but directed his observations to the system under which he acted.

Mr. FLOYD was in favor of the motion, and submitted a variety of observations on the general policy of the Indian department, as it had been hitherto conducted. In the course of his remarks, he said that all the Indians east of the Rocky Mountains, did not exceed, (according to the Missionary accounts,) 260,000. A vast proportion of these, the United States had no intercourse with. Of the residue, Major O'Fallon, on whose activity, fidelity, intelligence, and zeal, he thought as much reliance could be placed, as on those of any other Indian agent, had charge of no less than 42,000 at the Council Bluffs. Yet this Government was charged with the expense of supporting a vast number of agencies, where the number of Indians superintended was comparatively very small. Mr. F. also adverted to the nature of the claim now made on the House. Formerly, he observed, the House of Representatives were inquired of, Whether, if a treaty should be formed, they would make appropriations to carry it into effect. Now, the language of the Senate was—we have made a treaty, and you must appropriate the sums which we have rendered necessary to comply with it. Mr. F. utterly disclaimed any personal reference to Governor Cass.

Mr. VANCE made a spirited reply to the observations that had been made with respect to the Governor of Michigan. He adverted to the Cherokee agency, (Mr. Crowell's,) where \$1,800 was given to the agent, which was within \$200 of the whole sum that Government was willing to allow to Governor Cass for exercising the duties, not only of Indian superintendent, but of Governor of the Territory of Michigan. He also alluded to the dearth of living at Detroit, which he said was as expensive as at Florida, or any other point of the Union. He took an extensive

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and comparative view of the Southern and Northern Indian agencies, and thought the latter were as little chargeable with extravagance as the former.

On motion of Mr. BALDWIN, the Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, April 24.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill to provide for annuities to the Ottowas, Pottawatamies, Kickapoos, Choctaws, Kaskaskias, to Mushalutubbee, and to carry into effect the treaty of Sag-anaw; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee on Commerce, to which was referred the bill from the Senate, entitled "An act to authorize the building of lighthouses therein mentioned, and for other purposes," reported the same with amendments; which were committed to a Committee of the Whole.

Mr. HARDIN, from the committee appointed on the 18th of February last, to inquire what retrenchment can be made in the expenditures of the Government, further reported, in part, a bill to reduce the annual compensation of certain officers of Government; which was read twice, and committed to a Committee of the Whole.

Mr. ALEX. SMYTH, pursuant to notice, asked leave to introduce a bill to allow persons not residing within the District of Columbia, and against whom judgments shall have been obtained therein, the benefit of the law for the relief of insolvent debtors, in like manner as the same is allowed to persons residing within the same District.

Leave was given, and a committee of three was appointed thereon.

Mr. KENT moved for the consideration of the bill from the Senate, to authorize the corporation of the city of Washington to drain the low grounds, and to ornament the public reservations in the said city.

The House agreed to consider the same.

Mr. MALLARY rose, and made an exposition of difficulties which, in his view, stood in the way of this bill. The first was, that the bill contemplated an important change in the plan of the city, which might have a material effect on the public property; and the other was, that it went to affect the contract between the United States and the original proprietors of the ground on which the city stands—one of the conditions of which was, that the ground which it is proposed by this bill to sell out for building lots, should be reserved for public purposes, or remain forever vacant; and that to devote it to other purposes, would give them a claim to indemnity, &c. These considerations, he argued, ought to induce the House to hesitate in deciding on it. He therefore moved to postpone the bill to the first day of the next session of Congress.

A motion was made, which superseded Mr.

MALLARY's motion, viz: to lay the bill on the table; and the bill was ordered to lie on the table.

A message from the Senate informed the House that the Senate *recede* from the third, sixth, seventh, and eleventh of their amendments to the bill of this House, entitled "An act making appropriations for the support of Government for the year 1822;" and *insist* on the fourth, fifth, and ninth of their amendments to the said bill. The Senate have passed bills of this House of the following titles, to wit: An act restoring to the ship Diana the privileges of a sea-letter vessel; and, An act making appropriations for the public buildings, with amendment. They have also passed bills of the following titles, to wit: An act for the better organization of the District Court of the United States, within the State of Louisiana; An act for the relief of Clarence Mulford; An act for the benefit of Thomas Pendergrass; An act for the relief of John Baptist Belfort and others; and, An act for the relief of Daniel Cooper; in which amendments and five bills they ask the concurrence of this House.

COMPENSATION BILLS.

Mr. HARDIN then moved, according to notice, to discharge the Committee of the Whole from the further consideration of the three bills reported by the Committee on Retrenchment, so as to bring them, and particularly the Congress-pay bill, immediately before the House.

Mr. LONG hoped the Committee of the Whole would not be discharged from the further consideration of the bill. For, said he, if it should now be taken up, he thought it would be disposed of in about the same way that most of the bills have been that have been reported, and been before us this session, acted upon in part, and left with the unfinished business. He presumed it was the object of the committee that reported that bill, to go into a general retrenchment. It was also the object of this House, he believed, and not to stop at merely reducing the pay of the members, clerks, and doorkeepers, of this House. He hoped we should have the whole plan of retrenchment in view, when it should be taken up, so that we may adopt a just and equitable system of retrenchment. If this bill should now be taken up, he believed that we should neither finally act upon it, nor any other, this session. He therefore hoped that the few remaining days of this session would be occupied in acting upon some of the bills that have been for so long the orders of the day for "to-morrow," and that we should not be quite all the session preparing business, and finally acting upon none.

Mr. EDWARDS, of North Carolina, said, the subject of their own pay ought not to engage the House in a very long discussion. It was a subject on which he presumed every man had made up his mind. He submitted to the House but this one observation: if the House was disposed to reduce the pay of members of Congress, it would be much more becoming in the members of this House to undertake that task for themselves, than

to pass a law at the next session, to operate upon their successors.

Mr. SMITH, of Maryland submitted to the gentleman from Kentucky, whether it would not be better to progress with the unfinished business before the House, and get through with that before they undertook any other. He was much afraid, if a different course was pursued, the House would not get through with the appropriation bill this session. Notwithstanding his friend from North Carolina supposed there would be no discussion on the compensation bill, Mr. S. said he would find that this would give rise to a great deal of discussion, and that amendment after amendment would be proposed to the bill. It was but fair to the Committee of Ways and Means to go on and finish their bill first.

Mr. CAMBRELENG was in favor of taking up these bills, and discussing them and he was in favor of passing the bill for reducing the pay of the members of Congress, which had been particularly referred to. When the pay was raised, five or six years ago, scarcely any reason was assigned for it, or could be; and he was in favor of restoring the practice of the Government for twenty or thirty years preceding.

Mr. WRIGHT denied that the pay of members had been raised without reason, and made a number of remarks against taking up this subject now. If gentlemen thought their services were not worth eight dollars, let them give place to others, or display their philanthropy by bestowing on charitable objects what they received beyond their merits. The gentleman from New York could see no reason for the late increase of the pay of members; but, Mr. W. said, he could give him twenty reasons for it. Do the people now ask Congress to reduce their own compensation? Why disturb the nation at this moment on this subject? How ridiculous was it for the members to say their services are not worth eight dollars per day, at the same time that compensation at the rate of twenty or thirty dollars per day was given to our judges. The efforts, or pretended efforts, to diminish the expenses of the Government, Mr. W. said, all had an eye to popularity. [For this remark Mr. W. was called to order.] He said he had done nothing more than state conclusions, which naturally flowed from the premises. For himself, he said he lost a fortune by becoming a member of Congress, being at the time he was first elected engaged in a practice worth two thousand pounds per year. He briefly reviewed his public life, the former compensation law, the clamor against it, and the manner in which he had met it, by quoting the pay of the judges, who performed duties much less laborious, and much less momentous than those of a member of Congress. Mr. W. concluded by saying, that those who were for reducing their own pay, must follow very literally the scriptural injunction, to humble themselves that they may be exalted.

Mr. WALKER, of North Carolina, considered the subject now proposed to be acted upon, to be of such importance that it ought not to be acted upon out of the usual course of things, which was to

discuss it in Committee of the Whole. In a matter of so much solemnity, he said, he was opposed to acting with precipitation.

The question was then taken on discharging the Committee of the Whole from the consideration of the retrenchment bills, and decided in the affirmative—yeas 105, nays 38.

The three bills being thus before the House,

On motion of Mr. HARDIN, that for reducing the compensation of Senators and Representatives in Congress was first read.

[This bill provides that the daily pay of the members of the Senate, from and after the present session of Congress, shall be six dollars, and the like allowance shall be made for every twenty miles travel to and from Congress. The bill contains like provisions as to the members of the House of Representatives; and also proposes considerably to reduce the compensation of the officers of both Houses.]

Mr. MCCOY moved to lay these bills on the table, in order to take up the bill, in the discussion of which the House had been engaged for several days. The motion was negatived.

Mr. McLANE made a motion to amend the bill so as to make it take effect from and after the present session, instead of from and after the passage of this law. But, after some conversation on the amendment, between Messrs. WALWORTH, McLANE, SMITH, of Maryland, and TRACY, Mr. McLANE withdrew his motion for amendment.

Mr. EDWARDS, of North Carolina, moved to strike out, from the part of the bill which relates to the pay of the Senate, that part which provides that "no daily allowance shall ever be made, in case of inability to attend, except when the Senate shall be in session." This proviso he considered unreasonable and disrespectful to the Senate.

Mr. MALLARY here renewed the motion for the previous question.

The House did not sustain the motion.

Mr. HARDIN then replied to the objections of Mr. EDWARDS to the particular clause of the bill referred to, and stated the object of this proviso to be to prevent members from hanging on here after the end of the session, on the plea of sickness, and claiming and receiving pay therefor. Another proviso in the bill was intended to prevent members remaining at home, and pleading sickness, and receiving daily pay while at home; which he understood had been done in more than one instance.

Mr. EDWARDS said, that he and the gentleman did not in the least differ, it appeared, as to what the bill ought to be, but he thought the phraseology went further than that.

After some further conversation, as to the proper phraseology of the amendment—

Mr. COOK said he was opposed to the amendment in any shape. He could not consent to vote for any proposition avowedly placed on so humiliating a ground as that a man, chosen by the free-men of the country to represent them, would debase himself so far as to remain in this city after the adjournment of Congress, for the purpose of drawing daily pay during his stay, and getting

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then a certificate from some quack or other, in order to get his account passed. There might be cases of persons taken sick while attending here, and who could not get home. In such cases, Mr. C. contended, reason and justice required that their expenses should be defrayed by the public.

Mr. WRIGHT also opposed the amendment on nearly the same grounds, and because, if any man was mean enough to counterfeit sickness to get pay, he would, after this amendment was adopted, have only to go some thirty or forty miles from the city, and thus appear to be taken sick on the road. But he did not believe that any such cases had occurred as those which the gentleman from Kentucky had alluded to.

Mr. HARDIN replied. If the House was disposed to allow to a man daily pay after a session was ended, whether sick or pretending to be sick, the gentlemen were right, and the bill and amendment were wrong. In reply to the gentleman from Illinois, who would not vote for the amendment because it supposed the possibility of corruption in this House, Mr. H. said the gentleman had altered his language since the first part of this session. Then, we were to act from time to time by wholesale, not by retail, as now proposed, to prevent corruption from getting into the House. Whilst he did not believe that the House was composed of corruptible men, he thought they were much like the rest of mankind; in regard to whom it had been always thought best not to place them in the way of temptation.

Mr. MILNOR was opposed as well to the proviso as to the amendment. It went upon a principle new to our laws, which now recognise the principle that those who are taken sick whilst in the public employ should be supported as though in health. It was hard enough, he said, for a man who is in the service of the country to be taken sick, and suffer the pains of sickness, without being obliged to pay the cost of it out of his private purse. Mr. M. said, that, when formerly in Congress, he had been a member of the Committee of Accounts, before whom all the accounts of the members pass in review. He never had known, during the years he served in that capacity, a single instance of any man demanding pay for any portion of time that he had been confined at home by sickness; and he never heard of such a thing until it was suggested this morning by the gentleman from Kentucky. He could not believe that such a case ever did exist. Sure he was, that, during the time he was a member of the Committee of Accounts, no such thing did occur.

The question on Mr. EDWARDS'S motion was then determined in the affirmative.

Mr. WRIGHT moved to amend the bill so as to reduce the mileage from six dollars for every twenty miles travelling to six dollars for every forty miles; and made a number of observations in support of the motion.

Mr. VAN WYCK again required the previous question, to prevent unnecessary consumption of time; but the House refused to sustain the call.

Mr. FLOYD, after expressing his general views favorable to this bill, as the foundation of a sys-

tem of retrenchment of expenses, which he sincerely believed to be necessary, objected to the proposed reduction of the mileage. Those who travelled far on horseback could not perform a long journey at the rate of forty miles a day, unless happily blessed with the constitution and vigor of the gentleman from Maryland. For those who had nothing to do but to throw themselves on board a steamboat and go to sleep, to be sure, the proposed allowance might be sufficient, but it was very different in regard to those who travel by hard journeys from the interior.

Mr. SMITH, of Maryland, said he always had thought the mileage too high; and proposed to his colleague to move thirty instead of forty miles, as he had proposed, for six dollars.

This modification was accepted by Mr. WRIGHT.

Mr. HARDIN said it was not the object of the Committee of Retrenchment to pull down the established order of things, but to reduce them, in consequence of the straitened finances of the country, to what they were eight or ten years ago. He was therefore opposed to this motion; and he called upon gentlemen not to be led away by the motion of the gentleman from Maryland, who was, as far as he could collect his views, opposed to the whole system of retrenchment. He did verily believe, he said, that nothing could save the nation from direct taxation but a retrenchment of the public expenses, and that the members of the House ought, in setting about it, to begin with themselves. He was therefore opposed to any amendment which might, like this, have a tendency to defeat the bill.

Mr. NELSON, of Virginia, said that, though the House had refused to sanction the previous question, it seemed that it was to be imposed in effect by the course which he had indicated. No amendment was to be allowed to the bill, and no objection was to be heard to it, because gentlemen were opposed to it in principle. Now, Mr. N. said, to show that he was as friendly to retrenchment as the gentleman from Kentucky, he now gave notice that he should move an amendment to the bill, which he was surprised the gentleman himself had not incorporated in it, to make this bill take effect from the commencement of this Congress.

Mr. BALDWIN wished distinctly to know on what principles the present bill was presented to the House. It was said by the gentleman from Kentucky to be a part of the system of retrenchment called for by the state of the finances of the country, as presented by his committee. Mr. B. wished to know from other gentlemen whether they had any other system of revenue to present, that the House might, by a comparison of different views, know whether this retrenchment was necessary. [The SPEAKER required Mr. B. to confine himself to the amendment.] Mr. B. then asked, further, whether it was the intention of gentlemen to establish, for the first time, a distinction between the mileage and daily pay of the members. Was the mileage predicated upon the actual expenses incurred on the road? Were eight dollars per day now allowed because mem-

bers were supposed to expend that much? Not so, but on the principle of allowing for time consumed as well as for expenses incurred. Mr. B. compared this allowance with what was made to officers of the Army, &c., to show that it ought not to be reduced as proposed.

Mr. MONTGOMERY said he intended to vote for this bill, because he did not choose to be on one side of any question, respecting which the people were on the other side; and he should vote for the thirty miles being allowed for a day's travel, because he thought it was a pretty fair allowance. His views upon the subject of retrenchment, however, did not exactly square with those of the gentlemen who generally supported this bill, and on a proper occasion he should show in what they differed.

Mr. WRIGHT spoke at some length in support of his amendment. The principal argument he urged in favor of his motion was, that the expense and difficulty of travelling had been lessened in a much greater degree than it was now proposed to reduce the allowance for mileage, and that, as it now stood, members residing at a distance drew a much greater sum of money for their attendance on Congress than any others.

Mr. SMITH, of Maryland, was in favor of this reduction, that the compensation to members might, in some degree, be equalized. Under the present system, the gentleman from Kentucky (Mr. HARDIN) got, in a session of ninety days, for his pay and mileage, \$400 more, at six dollars per day, than he (Mr. S.) would receive at eight dollars per day.

Mr. SERGEANT assigned the reason why he was opposed to the amendment. He went upon the ground that the original principle, upon which the pay and mileage were fixed at the same rate, was, that the allowance for mileage should bear the same relation to the expenses of travelling that the daily pay did to the expenses of living here. In speaking to this point, Mr. S. said it was one which in no manner concerned him personally; but he wished it to be settled on just principles.

Mr. TRACY declared himself in favor of this bill as a part of a system of retrenchment, in regard to which the House would find its course much more clear and easy after passing this bill. With regard to the particular amendment now proposed, he said he would vote for it, being favorable to it on principle, if he did not believe the adoption of it would defeat the bill. He begged, therefore, of gentlemen who were really favorable to the bill, not to vote for such amendments to it as were calculated to make it obnoxious.

Mr. WOODCOCK could not understand why his colleague should so far distrust the House as to refuse to do what was right lest the House should hereafter do what was wrong. He had never discovered such a perversity of disposition in the House; and he should vote on this proposition with reference to its real merits, as it appeared to him other gentlemen ought also to do.

The question on amending the bill so as to reduce the allowance to members for mileage to six

dollars for every thirty miles' travelling, was then taken and decided as follows, in the affirmative—yeas 83, nays 74.

YEAS—Messrs. Allen of Massachusetts, Archer, Barber of Connecticut, Bateman, Bayly, Borland, Brown, Buchanan, Burrows, Cambreleng, Campbell of New York, Cassidy, Condict, Conner, Cook, Cushman, Darlington, Denison, Durfee, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Findlay, Fuller, Gross, Hawks, Hemphill, Hooks, Hubbard, F. Johnson, Kent, Keyes, Lathrop, Litchfield, McCarty, McSherry, Matlack, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Moore of Virginia, Morgan, Murray, Neale, Nelson of Maryland, Nelson of Virginia, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Rich, Rochester, Rogers, Ruggles, Russ, Russell, Sanders, Sawyer, Sloan, S. Smith, Sterling of Connecticut, Sterling of New York, Stoddard, Swan, Taylor, Tod, Tomlinson, Upham, Van Rensselaer, Van Wyck, Walworth, Warfield, White, Williams of Virginia, Wood, Woodcock, Worman, and Wright.

NAYS—Messrs. Alexander, Baldwin, Ball, Bassett, Baylies, Blackledge, Blair, Breckenridge, Butler, Campbell of Ohio, Cannon, Chambers, Cocke, Crafts, Crudup, Cuthbert, Dane, Dickinson, Dwight, Edwards of North Carolina, Farrelly, Floyd, Garnett, Gebhard, Gilmer, Gorham, Hall, Hardin, Harvey, Hendricks, Hill, Hobart, Holcombe, Jackson, J. T. Johnson, Kirkland, Leftwich, Long, Lowndes, McCoy, McLane, Mallary, Matson, Metcalfe, Moore of Alabama, New, Newton, Overstreet, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Rhea, Ross, Scott, Sergeant, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Stevenson, Stewart, Tatnall, Thompson, Tracy, Tucker of South Carolina, Tucker of Virginia, Vance, Walker, Whipple, Whitman, Williams of North Carolina, Williamson, and Woodson.

So the amendment was agreed to.

Mr. FLOYD then moved to amend the bill so as to postpone its operation to the first day of July next.

On this motion a desultory debate took place, occasionally verging on the main principle of the bill, and incidentally involving the question whether or not the proposed reduction was a violation of the contract under which the members have attended; in which Messrs. SMITH, of Maryland, GORHAM, WRIGHT, WARFIELD, SMYTH, OVERSTREET, WHIPPLE, WOODSON, MITCHELL, of South Carolina, and BALDWIN, took part.

On motion of Mr. BALDWIN, the yeas and nays were ordered.

Mr. NELSON, of Virginia, moved to amend the amendment so as to provide that the reduction should take effect from the first day of July last.

Mr. MITCHELL, of South Carolina, called for the yeas and nays, which were thereupon ordered, and the motion was supported by Mr. NELSON, of Virginia, and opposed by Mr. EDWARDS, of North Carolina, Mr. RHEA, Mr. FLOYD, and Mr. WRIGHT, but, before any question was taken thereon—

Mr. BUTLER moved to recommit the bill to the committee that reported it, with instructions to report at the next session of Congress whether

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there are any officers in the Government whose services can be dispensed with without injury to the public service, and also whether there are any officers in the Government whose salaries may be reduced.

Mr. BUTLER supported his motion at considerable length, and Mr. ROSS opposed it.

Mr. TRACY called for the yeas and nays, which were taken as follows:

YEAS—Messrs. Ball, Barstow, Bayly, Blackledge, Butler, Cannon, Cushman, Fuller, Gist, Gorham, Hooks, Lathrop, Long, McCarty, McNeill, Milnor, Newton, Rankin, Scott, Williamson, and Wilson—21.

NAYS—Messrs. Alexander, Archer, Baldwin, Barber of Connecticut, Barber of Ohio, Bassett, Bateman, Baylies, Bigelow, Blair, Borland, Breckenridge, Brown, Buchanan, Burrows, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Cocke, Condict, Conner, Cook, Crafts, Crudup, Cuthbert, Dane, Darlington, Denison, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of North Carolina, Eustis, Farrelly, Findlay, Floyd, Garnett, Gebhard, Gross, Hall, Hardin, Hawks, Hendricks, Hill, Hobart, Holcombe, Hubbard, Jackson, F. Johnson, J. T. Johnson, Kent, Keyes, Kirkland, Leftwich, Litchfield, McCoy, McDuffie, McLane, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Maryland, Nelson of Virginia, New, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rhea, Rich, Rochester, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sawyer, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Sterling of Connecticut, Stevenson, Stewart, Stoddard, Swan, Tatnall, Taylor, Thompson, Tod, Tomlinson, Tracy, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Walworth, Warfield, Whipple, Whitman, Williams of North Carolina, Williams of Virginia, Wood, Woodcock, Woodson, Worman, and Wright—134.

The question was then put on agreeing to the amendment proposed by Mr. NELSON, of Virginia, and was also decided in the negative—yeas 35, nays 121, as follows:

YEAS—Messrs. Barber of Connecticut, Buchanan, Burrows, Butler, Campbell of New York, Cassidy, Conner, Eddy, Eustis, Gebhard, Hawks, Hooks, Hubbard, Keyes, McCarty, Matlack, Mattocks, Mitchell of South Carolina, Nelson of Maryland, Nelson of Virginia, Pierson, Pitcher, Rich, Rochester, Ross, Russ, Russell, Sterling of Connecticut, Stoddard, Swan, Taylor, Walworth, Warfield, Williamson, and Woodcock.

NAYS—Messrs. Alexander, Archer, Baldwin, Ball, Barber of Ohio, Barstow, Bassett, Bateman, Baylies, Bayly, Bigelow, Blair, Borland, Breckenridge, Brown, Burton, Cambreleng, Campbell of Ohio, Cannon, Chambers, Cocke, Condict, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Durfee, Dwight, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Farrelly, Findlay, Floyd, Fuller, Garnett, Gilmer, Gist, Gorham, Gross, Hall, Hardin, Harvey, Hemphill, Hendricks, Hill, Holcombe, Jackson, F. Johnson, J. T.

Johnson, Kent, Kirkland, Lathrop, Leftwich, Litchfield, Long, McCoy, McDuffie, McLane, McNeill, McSherry, Mallary, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Rhea, Rogers, Ruggles, Sanders, Scott, Sergeant, Sloan, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Stevenson, Stewart, Tatnall, Thompson, Tod, Tomlinson, Tracy, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Wilson, Wood, Woodson, Worman, and Wright.

The original motion to amend by Mr. FLOYD, was next in order, and was taken, without further debate, by yeas and nays, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barber of Ohio, Barstow, Bassett, Bateman, Baylies, Bayly, Bigelow, Blackledge, Blair, Breckenridge, Brown, Burton, Cambreleng, Campbell of Ohio, Cannon, Chambers, Cocke, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Durfee, Dwight, Edwards of North Carolina, Eustis, Farrelly, Findlay, Floyd, Fuller, Garnett, Gist, Gorham, Hall, Hardin, Hemphill, Hill, Hobart, Holcombe, Jackson, J. T. Johnson, Kent, Kirkland, Lathrop, Leftwich, Litchfield, Long, McCoy, McDuffie, McLane, McNeill, Mallary, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Alabama, Morgan, Neale, Newton, Overstreet, Patterson of Pennsylvania, Plumer of Pennsylvania, Poinsett, Rankin, Rhea, Rogers, Ruggles, Russ, Sanders, Scott, Sloan, Arthur Smith, W. Smith, Alex. Smyth, J. S. Smith, Stevenson, Stewart, Tatnall, Thompson, Tod, Tucker of South Carolina, Upham, Vance, Van Rensselaer, Van Wyck, Walker, White, Whitman, Williams of North Carolina, Williams of Virginia, Williamson, Wilson, Wood, Woodson, and Wright—105.

NAYS—Messrs. Barber of Connecticut, Borland, Buchanan, Burrows, Butler, Campbell of New York, Cassidy, Condict, Conner, Denison, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Gebhard, Gilmer, Gross, Harvey, Hawks, Hendricks, Hooks, Hubbard, F. Johnson, Keyes, McCarty, McSherry, Matlack, Mattocks, Mitchell of South Carolina, Moore of Virginia, Murray, Nelson of Maryland, Nelson of Virginia, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Rich, Rochester, Ross, Russell, Sawyer, Sergeant, S. Smith, Sterling of Connecticut, Stoddard, Swan, Taylor, Tomlinson, Tracy, Tucker of Virginia, Walworth, Warfield, Whipple, Woodcock, and Worman—55.

So the amendment was agreed, to and the House then adjourned.

THURSDAY, April 25.

Mr. RANKIN, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act for the relief of the representatives of John Donnelson, Thomas Carr, and others," reported the same without amendment, and it was committed to a Committee of the Whole.

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Public Buildings.

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Mr. RANKIN, from the committee of conference appointed on the part of this House, to attend a conference with the conferees appointed on the part of the Senate upon the subject-matter of the disagreeing votes of the two Houses on the amendment proposed by this House to the amendments of the Senate to the bill of this House entitled "An act to provide for paying to the State of Missouri three per cent. on the net proceeds arising from the sale of the public lands within the same," made a report, which was ordered to lie on the table.

The amendment proposed by the Senate to the bill, entitled "An act restoring to the ship *Diana* the privileges of a sea-letter vessel," was read, and concurred in by the House.

The engrossed bill for the relief of Alzira Dibrel and Sophia Hancock was read a third time and passed.

The following bills from the Senate were twice read and referred to their appropriate committees, viz: A bill for the better organization of the district court of the United States within the State of Louisiana; a bill for the relief of Clarence Mulford; a bill for the benefit of Thomas Pendergrass; a bill for the relief of John Baptist Belfort and others; and a bill for the relief of David Cooper.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives:

In compliance with a resolution of the House of Representatives of the 29th January last, requesting the President of the United States to cause to be communicated to that House certain information relative to the claim made by Jonathan Carver to certain lands within the United States near the falls of St. Anthony, I now transmit a report of the Secretary of the Treasury, which, with the accompanying documents, contain all the information on this subject, in the possession of the Executive.

JAMES MONROE.

WASHINGTON, April 23, 1822.

The Message and report were referred to the Committee on the Public Lands.

Mr. SAWYER gave notice that he should, on tomorrow, move for the consideration of a resolution, heretofore submitted by him, convoking the next Congress on the first Monday of November next.

Mr. A. SMYTH moved a resolution, the object of which was, that, from and after the commencement of the next week, after sitting from ten until ten minutes after four o'clock, there should be a recess of the House, on each day, from four until half past five o'clock; and that a motion to adjourn should not then be in order until seven o'clock.

Mr. HARDIN remarked that, as far as his observation extended, the members were not likely, about the hour designated for reassembling, to be in the best possible condition for doing business.

The previous question of consideration being required, was taken, and decided in the negative by a large majority. So the House refused to consider the resolution.

Mr. COCKE moved to discharge the Committee on Revolutionary Pensions from the further consideration of the several petitions referred to them. That committee, he said, had reported a general bill upon the subject, which passed this House, but has been rejected in the Senate. It was impossible for the committee to act specially upon all the petitions at this session, and it was his object that they should be laid on the table till the next session.

The motion was agreed to.

On motion of Mr. SMITH of Maryland, Mr. RHEA, and Mr. CAMPBELL of Ohio, the Committee of Ways and Means, the Committee on Pensions and Revolutionary Claims, and the Committee on Private Land Claims, were respectively discharged, also, from the petitions referred to them.

Mr. HEMPHILL rose and said, that so much of the money of the nation had been expended on the Cumberland road, it would not be prudent or provident to suffer it now to go to decay for want of repairs. He therefore moved to discharge the Committee of the Whole from the further consideration of the bill providing for the erection of turnpike gates on the Cumberland road, and that the same be laid on the table, that he might have an opportunity of asking the House to act on it at a future day.

The motion was agreed to.

The SPEAKER laid before the House a communication from the Secretary of War, stating that the information which the President of the United States is requested to furnish by a resolution of the House, adopted on the 8th of January last, cannot be prepared in time to be laid before the House before the next session of Congress; which was read, and ordered to lie on the table.

Mr. BUCHANAN, from the select committee, to whom that subject was referred, made a report respecting certain fines imposed on the militia of the State of Pennsylvania, concluding with the following resolution, which was ordered to lie on the table:

Resolved, That the uncollected militia fines due from delinquents in the State of Pennsylvania, which have been assessed by courts martial, and all fines collected by the late or present marshals of Pennsylvania, or their deputies, which have not been paid into the Treasury of the United States, or applied to the payment of expenses of courts martial, be transferred to the State of Pennsylvania, with full power to collect the same.

PUBLIC BUILDINGS.

A message was received from the Senate, returning the bill which originated in the House of Representatives, making appropriations for the public buildings, with an amendment to add \$1,250 to graduate and improve the public grounds around the Capitol.

Mr. COCKE moved that the House disagree to the amendment of the Senate. The motion was supported by Mr. VAN WYCK and the mover, and opposed by Mr. TAYLOR.

Mr. BLACKLEDGE remarked, that the sum which

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had been allowed to the person employed in that business, viz., seven hundred and fifty dollars, would be probably sufficient.

The SPEAKER suggested that it was necessary, by the rule, that this question be discussed in a Committee of the Whole before a decision on it; and, thereupon,

The House went into a Committee of the Whole, on the aforesaid bill.

Mr. COCKE renewed the motion which he had made in the House to disagree to the said amendment.

Mr. MALLARY moved that the Committee rise. This motion was opposed by Mr. COCKE and Mr. TAYLOR, when it was withdrawn by the mover, who observed that he perceived it was leading to a discussion, which was the very thing he intended to avoid.

Mr. TAYLOR moved to strike out that part of the amendment which related to graduating the public ground, which was agreed to—ayes 79.

Mr. ROCHESTER moved to amend the amendment, by striking out \$1,250, and to insert in lieu thereof, the sum of \$750. After a discussion of the subject, by Messrs. VAN WYCK, KENT, NELSON of Massachusetts, and RHEA, the question was taken, and negatived.

The amendment of the Senate, as amended, was then agreed to—ayes 68, noes 34, and the Committee rose, and reported the same.

In the House, the decisions in the Committee of the Whole were affirmed—ayes 74.

GENERAL APPROPRIATION BILL.

The message received from the Senate announcing its adherence to the fourth, fifth, and ninth, amendments, which were made by that body to the general appropriation bill, was taken up.

Mr. WALWORTH moved that this House do adhere to its disagreement to the said amendments of the Senate. The question was divided, and the question on insisting on the disagreement to the amendment proposing a provision for running the boundary line between this Government and the late Spanish provinces, being under consideration—

Mr. WALWORTH moved to insist on the disagreement of this House to the said amendment.

Mr. COCKE rose, he said, to state a fact, which would show the inexpediency of concurring in this amendment of the Senate. The time for appointing commissioners to run this line was limited to one year from the date of ratification; that that period had passed, and that Spain had omitted to fulfil the stipulation on her part within the time limited, so that the United States were exonerated from any further obligation to carry it into effect.

Mr. ARCHER, of Virginia, rose to examine the main objection which had been taken to the appropriation now proposed, viz., that the resolution of this House approving the recognition of the independence of the nations of South America, went to preclude the execution of that article of our late treaty with Spain which relates to boundaries. Suppose, he said—what he did not, however, admit—that there was some inconsistency between

our act of recognition and that treaty. In that case, which of these acts is binding on us; which has priority? The first of them is the act by which we plighted our faith to Old Spain. It is a compact founded in valid and adequate consideration. We have received, and are in the actual enjoyment of that consideration. And shall we be told, said he, that it is competent for us to rescind an act of plighted faith? To omit the performance of a contract with a foreign Government—on what ground? On the ground of a subsequent voluntary act of our own? Mr. A. said he had heard of a nation being released from the obligations of a treaty, on the ground of an act performed by another party; but this was the first time it had ever been asserted on this floor, or probably on this earth, that you may abrogate your own faith—release yourself from your own obligations by your own act. Such a doctrine could not be justified either here or any where else. Would it be contended that we owed no good faith to Spain? By the same code of morality we may reclaim the very territory which, by that treaty, we have renounced. Mr. A. said he could not believe that gentlemen had taken this view of the subject, or that they would sustain such doctrine.

He had argued thus, he said, on the supposition that there is really something in the act of recognition inconsistent with our treaty obligations with Spain; and even in this case the inference would not be warranted that we had a right to disregard an express stipulation of the treaty. But, he said, that supposition was not a fair and sound one. There was, he contended, no collision between the effect of one act, and the obligation imposed by the other on this Government. No one, Mr. A. said, had more heartily concurred in the vote of recognition than he, and none would more determinately support it in all its consequences. But he could not see that we have by that act brought ourselves into the strange predicament that gentlemen had supposed. If it had been necessary, in order to vote that act of recognition, that we should break the faith of this nation, anxious as he was to witness that recognition—far as he would go, even to war with all Europe in support of it—he, for one, would not have concurred in that act. He would have jeopardized the interests of his country—he would have hazarded war, in order that we might take that stand; but there was one thing he would not have done—he would not have paid for the pleasure of that recognition the faith and honor of this Government. But, as he had before observed, no such consequences were involved in it.

What do we do, said Mr. A., if we agree to this appropriation? Do we undertake to decide between the conflicting rights of Old Spain and Mexico? No; we only say, here runs the line which marks the property of the United States; within this we claim. We run our own boundary. We give up all beyond it as not belonging to the United States, though we have heretofore asserted our title to it. Does this preclude the rights of the Government of Mexico? Our act of recognition binds us to a great deal, but surely never to the ex-

tent to which some gentlemen conceive. In making the proposed appropriation, we do not undertake to decide between the rival pretensions of governments, but to do what every individual has a right to do in regard to his own property—that is, to ascertain and mark the bounds of it.

One other consideration connected with this subject appeared to him to be very important, to which he would call the attention of the House. What is the rule of interpretation of treaties, as recognised by all writers on the laws of nations, and by all civilized nations? That every part of a treaty shall respond to the other parts of it; that the failure to perform one part produces a forfeiture of the other. Well, without any act on the part of Spain, we refuse to comply with a positive stipulation which has been made on our part. It was very true, Mr. A. said, that we are in possession and enjoyment of Florida; it was very true, that it was not within the competency of Old Spain to wrench from us this consideration. But he did assert, that if we took the course of refusing to execute our part of the treaty, Spain would stand justified in wresting Florida from our hands, if she had the power to do so. We now refuse to give to her the very ground of consideration on which she made the cession. We get all that we were to have; we establish a military force around the territory; we place in it civil and military authorities, and then we refuse to Spain the consideration on which she concedes it to us—and why? Because she has done any thing wrong—because we have any ground of complaint against her? No; because we have done something since, and that a voluntary act on our part, inconsistent with our faith to Spain! This was the strongest side of the argument against the appropriation. It was impossible, it appeared to him, in any view of it, that the House could oppose the appropriation proposed by the Senate.

Mr. HARDIN, of Kentucky, said he understood the object of those who were for disagreeing to this amendment was to postpone the subject to the next session, in order to ascertain with certainty whether Texas forms a part of the Government of Mexico, and whether this arrangement of boundary should not be made with the new government, and not with the Government of Spain. The argument of the gentleman from Virginia was very correct, if his first position had been so; but, like Archimedes, who could have moved the earth had he but a place to stand on, the gentleman from Virginia could not move the earth because he had not a place to stand on. Now, Mr. H. said, if our contract with Spain, by the treaty, had been to pay her a sum of money, however Spain might afterwards have been cut up, that part of the nation over which her sovereignty remains is the part to which the stipulation must be performed. But the contract for the boundary line was a contract to operate *in rem*. It was a contract entirely of a local character, and not an executory one, such as a payment of money. The proposition of the gentleman from New York Mr. H. considered a very correct one. We all recognise the right of a people to establish what government they please

—to dissolve their government, or to make half a dozen governments in the place of one. I understand, said he, that we have specially recognised the Government of Mexico. With what government, then, are we to adjust the boundary between us and Mexico? I agree we cannot dissolve a contract with Spain; but the part of a contract which is of a local character, must, Spain being cut up into several governments, be performed to the government where the land lies. Mexico is an independent government, and Texas is a part of it. With whom, then, are we to adjust the boundary line? With Old Spain? No; with the Government of Mexico. The proposition of the gentleman from New York is to postpone a decision on this subject; to wait to see whether the Government of Mexico is organized, and, if so, to adjust the boundary with the new government, and not with the old. Will an adjustment of the line with Old Spain be obligatory on the Empire of Mexico? No; it will not.

Mr. H. agreed with the gentleman from Virginia in his positions; but, he said, they would not apply to the present question. A solemn vote of this House had been passed, with but one dissenting voice, that Mexico is an independent empire, and the contract for boundary must inure to her benefit, she, and not Spain, having now an interest in it.

Mr. WOODSON, of Kentucky, said, that, on the subject of this appropriation, when lately before the House, he had voted, with a great majority of the House, against this appropriation, because he thought there was an inconsistency between it and the vote to recognise the independence of Mexico. But, since that time, he had turned his attention to the best authority upon the subject of national law—he had consulted Vattel, and from what was laid down in that book, he had become perfectly convinced that it was the duty of the House to make the appropriation, and to do every thing on its part to carry the contract into effect. It would not be controverted, that the Government of Mexico was bound to carry into effect our contract with Old Spain, and to carry it into effect literally. But, Mr. W. said, he would suggest this idea, and he was confident it would have its weight with every gentleman in this House: Considering the delicacy of our situation with respect to Spain, although he was disposed to meet with firmness the course which Spain might take in consequence of the recognition of the independence of Mexico, &c., we ought not to give to her any just cause of complaint. The honor of our country, too, is at stake in this matter, requiring a compliance with the treaty. In that treaty there is an express stipulation that we will release all our right in certain boundaries on the side of the province of Texas, in consideration of the release, by Spain, of all her interest in the Floridas. Was it not a proper subject of consideration for us, whether we would violate the contract on our part? Mr. W. asked the gentleman from Kentucky, as a lawyer, what would excuse him, a private individual, from the performance of a contract of this kind? His own voluntary act can-

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not; and nothing but an act of God, or the force of an enemy, can excuse us. The hindrance to the execution of a treaty must be produced, in the language of the books, by the King's enemies—that is, adapting the language to our condition, by the enemies of this Republic. No such impediment, nor any act of God, now intervenes. We ought to bring the matter to this solemn test. If, by the treaty, we are bound to appoint commissioners for a special purpose, let them proceed to discharge the duty described in that compact. If they are met by actual force in Mexico, then it will be time to stop. By that prevention, and by nothing less, shall we be relieved from our obligation to Spain. By our act of recognition we do not intermeddle in the concerns of Mexico and Spain. Old Spain contends that Mexico still belongs to her. A solemn act of the Cortes declares, that they do not intend, voluntarily, to relinquish their claim upon their American territories. Our declaration is but an expression of our opinion; and, whatever it be, being our own act, cannot release us. According to national law, and the code of principles which govern treaties, the United States are not exonerated from the performance of the conditions of the treaty. Mr. W., therefore, hoped the appropriation would be made, as proposed by the Senate.

Mr. MALLARY, of Vermont, was in favor of the amendment of the Senate, not from any strong impression that it would operate beneficially, or that it would be important either one way or another. But, in the present condition of our affairs, it was a matter of prudence and sound discretion to agree to the proposition of the Senate. As to the effect of a refusal on our part to meet the Commissioner of Spain, he did not believe it would abrogate the treaty; but, as before observed in debate, our affairs with Spain were in a ticklish situation, and it was not worth while to do any thing to excite hostile feelings towards us. On this subject he would remark, that what would be the relation of Mexico to Spain six months hence could not now be foretold. We have declared that Mexico is independent. Suppose it is so, and Spain herself ratifies it, and transfers to Mexico the rights which she possesses by the treaty. Is that impossible? Suppose, on the other hand, that, by an arrangement with Mexico, the latter should remain a province of Spain, and that Spain calling on us to run the boundary line, we should not be ready. Will it not be giving Spain an advantage over us? No injury could possibly result from making this appropriation, though it might from withholding it. Mr. M. had no idea that the President would appoint a commissioner, merely to go on the line and say, we are here; but, when a disposition should be manifested on the part of Spain to go on, the President would appoint the commissioner. In short, to prevent the possibility of the Spanish nation placing us in the wrong, Mr. M. was for giving this power to the Executive.

Mr. TAYLOR, of New York, said that the ratifications of the treaty between the United States and Spain were exchanged on the 22d day of February, 1821. That treaty provides that within

one year a commissioner and surveyors shall be appointed by the two Governments to run the boundary line. Congress, in performance of this treaty, did, at the close of the last session, pass a law, in which they granted to the President the power to appoint a commissioner and surveyors to carry into effect the stipulations of the fourth article of the treaty. Congress, therefore, promptly, on its part, did all that it was competent to do, to enable the Executive of the United States to carry into effect the fourth article of the treaty with Spain. If the Spanish Government had appointed a commissioner, the President would have exercised the power on his part. The fault of the treaty not being executed within the time stipulated, was not in this country, but in Spain, for not having appointed a commissioner and surveyors. It would, therefore, be a sufficient answer for our Government to make to Spain, should her commissioner and surveyors appear, that we were ready, at the proper time, to have executed the treaty. And, in the meantime, Mr. T. said, changes have taken place. It might be contended, with propriety, indeed, that we are not bound, in the new attitude of the nation near us, to proceed in the execution of the treaty. But, on the other hand, Mr. T. said he could imagine a case in which it would become the duty of the President to make the appointment. If the Spanish Commissioner should appear, although the time has expired, the subject having not been concluded—and if the Mexican Government should also call on us to execute the treaty, it might become the duty of the President to make the appointment. It was quite probable, that the running of the boundary might be claimed by Mexico as a right to which she succeeds as the proprietor and sovereign of that country. The conclusion, therefore, to which Mr. T. had come was this: that, although we might make a captious objection to appointing a commissioner, &c., the year having expired, it does not become us to interpose such an objection. Considering that Congress has authorized the President to make the appointments and fix the compensation of the officers under that treaty, and that a state of things may present itself making it the interest of the United States and the duty of the President to make the appointment; and, considering the disposition shown by the President to avoid unnecessary expenditure in not having made the appointment heretofore, the House ought not now to agree to the appropriation, &c.

Mr. ARCHER spoke again in favor of the amendment of the Senate, and in explanation of his former observations. He justified the ground which he had taken, and replied to Mr. HARDIN's remarks, which amounted to no more than this—that he would give up the argument but keep the land, reversing what had been said of the conduct of the House in regard to the adjustment of the Yazoo claim.

Mr. ALLEN, of Massachusetts, argued, that, inasmuch as this treaty was intended to vest in the Government of Spain certain territory which was heretofore understood to belong to the United States, the actual transfer of that sovereignty did

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not take place on the ratification of the treaty, but the land did and does yet remain within the jurisdiction and subject to the United States, and will so remain until the line shall have been run conformably to the stipulations of the treaty itself. Nothing had taken place, he said, which could have the least effect to exonerate and discharge the Government of the United States from its obligation by this treaty to Spain. If this were a correct view of the subject, every difficulty which embarrasses this question was laid out of the case. The argument that it was a contract *in rem* did not apply, because the territory is within the jurisdiction of the United States. Spain has a right to the execution of the treaty in her favor, because Mexico has not succeeded to the rights of Spain in regard to it, those rights not having taken effect because of the non-execution of that provision of the treaty.

Mr. BUCHANAN, of Pennsylvania, said, in reply to Mr. ALLEN's argument, that it was not a line that was to be fixed by the Commissioners, that being done by the description of it in the treaty; but it was a line to be marked. The national boundaries are specified in the treaty; and all that the Commissioners can have to do is to mark the line which is thus specifically defined. The gentleman from Kentucky was perfectly correct, Mr. B. said, when he contended that the Mexican Government would be bound to run the line, as by its succession to the rights of Old Spain, it had also succeeded to her duties. What then would be the proper mode of proceeding? Mr. B. objected, he said, to the appointment of a Commissioner to meet the Commissioner of Spain; and when he did that, he was as much in favor of observing the obligations of the treaty as any gentleman. Do we wish to violate this contract with Spain when we say we will not run this line in conjunction with her? No; we say, that Mexico has succeeded to the rights of Spain, and having done so, we are bound to carry the treaty into effect with the former, and not with the latter. We made our contract with Spain—how? As the sovereign over those territories. What has happened since? Why, it appears that the sceptre has passed from the hands of Spain, and not she but another Power possesses the sovereignty. Mr. B. said he would just put one question, by way of illustration. Suppose, after this country was declared sovereign and independent during the Revolutionary war, a stipulation had been made between Great Britain and Spain to run our boundary line, would we have suffered our sovereignty to be violated with impunity? Or has any nation now a right to go into Texas or Mexico and run the boundary line? Surely not. This, Mr. B. said, was his view of the matter, and he believed it to be correct. He would, therefore, withhold the proposed appropriation; not that he would violate our engagement with Spain, but that he would perform it to the proper sovereign. There was so palpable an inconsistency between this appropriation and the recognition of the independence of Mexico, that he could not vote for it.

Mr. EUSTIS, of Massachusetts, said that the Mexican Empire covers a certain tract of territory and embraces a certain population. What is that country? What is that population? These points are not yet distinctly ascertained. The Mexican Government itself does not know, and never will know until this line is run. It was not proposed to enter the Mexican territory, as supposed by the argument of the gentleman from Pennsylvania; we can run the line on our own land. It depends on an event yet to take place, (the running of our line,) how far the Mexican Empire extends itself. It is desirable that that question should be settled, and the sooner it is settled the better. It would be found, on examination, that we are bound in good faith to Spain to run this line. Could any member on this floor assign a reason why Old Spain made this the condition in the treaty other than the relinquishment of Florida? All the objections to the appropriation on the ground of its proposing a violation of the rights of Mexico he considered to be unfounded, there being no reason to doubt that the Mexican Government would be satisfied with the line to be run between this country and Old Spain. Suppose Mexico should hereafter become ambitious, and extend her claims so as to cover ten or fifteen degrees of our Western territory. If no line had been run, it might become a matter of difficulty; at the present moment the line might be ascertained without any difficulty at all. With regard to the treaty, Mr. E. said it ought undeniably to be carried into effect on our part. If we are prevented from carrying it into effect by the Government of Mexico, we shall at least have done our duty.

Mr. DWIGHT, of Massachusetts, said he hoped the House would adhere to their disagreement to the amendment of the Senate, by which they now proposed to appropriate nine thousand dollars to carry into effect a stipulation with Spain, which Spain, on her part, had been, since the making of the treaty, rendered incapable of carrying into effect. With the gentleman from Virginia, he thought the faith of the Government was the dearest and the most exalted attribute of national character, and he would ask his friend from Virginia if he were not about to peril that faith upon the measure which he advocated? What, sir, has this House done, and what are the obligations which their act imposes? Sir, you have, with but one dissentient voice, recognised the freedom and the sovereignty of the late provinces of Spain in America. You have appropriated \$100,000 to carry that recognition into effect. The faith and the honor of this House is pledged to do no act inconsistent with the recognition of these sovereignties, and yet what does the amendment of the Senate call upon you to do? Why, sir, to appropriate \$15,000 to run a line, in conjunction with Old Spain, through a territory which, ten days since, you most solemnly declared was under the sovereignty of the people of Mexico. In other words, sir, you are now recognising the sovereignty of Spain to a territory over which, but yesterday, you said, the people of Mexico were

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sovereign. Sir, it is not with nations as with individuals. The running of a line of this sort implies a recognised sovereignty in each nation so running it, to the territory on one side of the line to be run. It is, then, inconsistent with your former act to make this appropriation. What, sir, will be the effect of the measure? The new Republics of Spanish America have hailed, or will soon hail with enthusiasm and gratitude, the noble act by which, as it regards us, we gave them an existence in the list of nations, and will you so soon blight that feeling and that existence by the measure now proposed to be adopted? Sir, said he, let us bring this question home to the feelings of this nation. Suppose France, immediately after her generous recognition of our independence, had run a line with England, by which Georgia had been determined to belong to her province of Louisiana, instead of being, as France herself had said, a Territory and independent State—would not the act have been void? Yes, sir, worse than void, it would have been faithless.

Mr. TUCKER, of Virginia, said, that he trusted there was no member of the House who was less disposed than himself to do any thing that should conflict with our recognition of the independence of Mexico. He was in favor of that measure when there was more merit in it than at present, because there was more danger—and those who were members of the last Congress knew that he had, last year, not only voted, but had raised his humble voice in favor of it. He said he should also be very unwilling to take any step which should be construed into disrespect to the new Mexican Government, and yet he was in favor of making the appropriation. He said that Mexico was bound by the treaty we had made with Spain, and was entitled to all the benefit of that treaty. If the Mexican Government should call upon us to carry this article of the treaty into execution, he wished to put it into the power of the Executive to do so. He could state on the authority of the gentleman who had been appointed Consul to Mexico, and whose communications respecting that country had been recently laid before this House by the Executive, that the Mexican Minister, who had been lately appointed to the United States, was to have left Mexico the 20th of last month, and consequently might be expected here in a few weeks. Should he, on his arrival, call upon the United States to run this boundary line, it would be placing this country in an awkward situation for the Executive to be obliged to say, it was ready on its part to execute the treaty, but that Congress had refused to furnish the means. He admitted that the Executive ought not to run this line without the sanction of the Mexican Government. But the execution of this article of the treaty was a mere Executive measure, and that branch of the Government might be safely left, on its own responsibility, to execute it with the proper parties. He was therefore, clearly in favor of concurring with the amendment from the Senate.

Mr. RHEA, of Tennessee, said, that that portion of the empire with whom remained the territory

was always bound to perform the stipulations of a treaty of boundaries. Did gentlemen intend, he asked, to commence a new negotiation with Mexico on this subject? Was not the faith of this nation already pledged for designating a line? If that pledge was not redeemed, the people of Mexico might come and claim the Floridas from us. He was astonished, he said, at some of the observations which had been made on this subject; and he hoped the House would agree to the amendment of the Senate. Did gentlemen want to throw every thing in the wind again? Did they wish to give up the country which bounds on the Pacific? Let the treaty, he said, be carried into effect entirely, unless it was meant to make it entirely void.

Mr. RUGGLES, of New York, said, he understood the object of the appropriation to be, to provide for a Commissioner under the 4th article of the Treaty with Spain, for the purpose of running the boundary line between the United States and the country which lately constituted the Viceroyalty of Mexico. To him the measure appeared to be inconsistent with the recent acknowledgment of Mexican independence. The province of Texas and the whole of the country through which the line was to pass, constituted, at the time of making the treaty, a part of the Viceroyalty of New Spain. The Government of the Viceroyalty extended over and included the whole territory until it met that of the United States. But the sovereignty of Spain over that country has now ceased. Mexico has taken her rank among the nations of the earth, and her independence has been formally acknowledged by this Government. From the Message of the Executive and the report of the Committee of Foreign Relations on that subject, it is obvious that the authority of the Mexican Government is co-extensive with that of the former Viceroyalty.

It makes no difference whether Mexico has achieved her independence by the power of her arms, or obtained it by cession from the parent country. When once established in her rank as a nation, and in the exercise of uncontrolled sovereignty, though she may have obtained it and may still hold it by the sword, her rights are the same as if that sovereignty had been granted by the consent of Spain. Mexico becomes, therefore, entitled to the benefit, and is bound by the obligations of the treaty, so far as it relates to the settlement of her limits or affects her national domain. The duties which the Government of the United States owes to Mexico do not arise from our act of acknowledgment. They are consequent upon the actual existence of her independence and sovereignty. But our recognition has placed us in a situation in which we cannot deny the obligations which arise from her having dissolved the connexion between herself and her parent country.

It is said that the treaty contains a stipulation by which the United States are bound to appoint a Commissioner to act with a similar officer to be appointed by the Government of Spain, and that in good faith we are obliged to do so. Doubtless, if the sovereignty of Spain over the Viceroyalty

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had continued, a refusal to appoint a Commissioner would have been a violation of the faith of the treaty. But the Government of Spain has lost its power to give effect to its own stipulations in regard to the boundary in question. In consequence of the loss of her authority over her provinces, Spain has become incompetent to perform on her part. The acts of a Spanish Commissioner would be as inoperative upon the rights of Mexico as upon the rights of any other sovereign and independent State. Spain, therefore, is the failing party in the fulfilment of the treaty, and the United States are absolved, by that failure, from the obligations which arose out of that instrument in this respect. This Government is now compelled to look to Mexico as the only Power who can peaceably and permanently settle the question of territorial limits.

But it is said that Mexico will consent to the settlement of the line by a commissioner holding his authority from the King of Spain. The necessity of such consent is of itself conclusive to show that Spain is incompetent to fulfil the treaty. But the expectation that Mexico will consent to the settlement of her boundary by the interference of a Spanish agent, is most extraordinary. The power to fix and establish her territorial limits is part of the sovereignty and independence which Mexico has but just declared and acquired. She utterly disclaims the control and authority of Spain, and, jealous as she must be of her mother country, the expectation that she will consent to a measure which admits the authority of Spain over her territory, and is absolutely incompatible with her sovereignty, is surely without any foundation in probability. If this appropriation were to be made in general terms, so as to authorize the Executive to fix and ascertain the boundary by concurrence with such Power as may from subsequent events appear to have the authority, it might not be objectionable. But as the object of the appropriation was to settle the line in concurrence with Spain, whose authority over the territory in question has ceased, Mr. R. said, he felt himself bound to vote against it on the ground that it was useless and inoperative in itself, a violation of the sovereignty of Mexico, and incompatible with the solemn acknowledgment of the independence of that country lately made in this House.

Mr. REID, of Georgia, said he hoped the House would not make provision for the pay and support of a commissioner to run the line between this country and Mexico, conjointly with a Spanish officer, and under the treaty lately negotiated with Spain. He hoped so because he did not perceive that the treaty itself, if properly construed, imposed the obligation of which gentlemen spoke. If it be true that good faith requires us to perform that part of the Spanish treaty which relates to boundary, he was sure that no member would be opposed to any measure whose object was to carry the stipulation into effect. But really, said Mr. R., I cannot look upon the matter in so serious a point of view. By the treaty with Spain, there is an agreement to mark out a certain boundary—and why? Because the territories of the

United States and Spain were contiguous, and it became proper, as well as convenient to the parties, to establish the limits of both. But, suppose the treaty with Spain about to be concluded at this moment, and that the United States were asked to accept an article by the terms of which the two nations would be bound, within a certain time, to establish and run out the boundary between the United States and Mexico, would not such a proposition be immediately rejected as unreasonable? Would it not be insisted, upon our part, that we had recognised the independence of the Spanish American Provinces; that Spain, therefore, possessed no lands on our borders; that, if it were proper to negotiate upon the subject of boundary, the negotiation should be with Mexico only? It appears to me that such objections would be conclusive, and that they should be no less valid to prevent a compliance with the requisitions of the treaty already ratified, so far as these have relation to the boundaries of the United States and of the late Spanish Viceroyalty of Mexico. The truth is, that the facts and reasons which served as the basis of the stipulation for the settlement of limits, have ceased to exist. When the treaty was framed, Spain possessed Mexico, and Mexico was bounded by the territories of the United States. It became a matter of importance, then, to both Governments, to ascertain the extent of their several jurisdictions. Time, however, has wrought serious changes. Mexico is no longer a province of Spain; she is an independent nation. Spain has, consequently, no portion of her empire in our neighborhood, and it follows that there can be no necessity for the establishment of land-marks between Spain and the United States. It is a good rule that, the reason of the law ceasing, the law also ceases. It is a rule as well applicable to treaties as to municipal law, because it is deeply founded in propriety.

I have heard it said, indeed, that we cannot treat with Mexico upon this subject, because her dominion does not extend to the line designated by the treaty. This is an opinion which, so far as I know, has been expressed only in this House. It is generally understood that the confines of the late Spanish province of Mexico or New Spain press upon the territories of the United States to the north and northeast; and we have not learned that the new Government has relinquished its ancient limits. Taking it for granted, then, that if you run any line in that direction, it must be the line between you and Mexico, in what language will this newly-born empire speak to the Commissioners engaged in the performance of this duty? Will she not say to them that they are trespassers, and that the United States are attempting to do that, in connexion with Spain, which can only be done by obtaining the consent and co-operation of Mexico? If it be urged that Mexico is bound by the stipulations of the treaty, because she was not, at the time of its execution, independent of Spain, will she not reply, that if it be true that there is an obligation resting upon her, she will of herself, now that she is independent, perform the duties imposed by the treaty,

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and that she will not trust them to other hands, especially to the agent of a Government whose interests are at variance with her own? It seems to me perfectly evident that Spain has nothing to do with the establishment of this boundary: and she might with equal propriety interfere in the settlement of limits between the United States and Canada.

We are told, however, that it is incumbent upon us to perform every jot and tittle of the treaty, lest we offend Spain. We may be perfectly easy on this head; for, if Spain be not already offended by your recognition of Spanish American independence, it is not probable she will be made angry by your refusal to make this appropriation; the more especially as the last is but the consequence of the first.

I regret to hear it averred that we have taken advantage of the weakness of Spain to offer her insult and injury. The allusion cannot be to the attitude we have assumed in relation to the Spanish colonies; for the measure recently adopted by this House has grown out of public opinion and the recommendation of the Executive, and is alike due to justice and to liberality. If, however, the remark be intended to apply to the diplomatic correspondence which preceded the late treaty, I can only say, that, if the letters of our Minister at Madrid be impartially examined, it will be found that we were not the offending party; that instead of offering we only repelled an indignity—an indignity which, by a large portion of our people, was thought to be a just cause for war. Sir, Spain is at this moment possessed of the esteem of this nation, in a larger degree than any other transatlantic Power; and long may she continue, by the cultivation of free institutions, to merit our good wishes.

Mr. SMITH, of Maryland, said it seemed to him gentlemen were begging the question. What right had Mexico to Texas at all? The rights of Mexico extend to no part of our territory. The lines of Mexico are well defined. The line of Texas is totally different from the boundary of Mexico. In no one part of the line between us and the province of Texas, as established by the treaty, does it touch the Kingdom of Mexico. He asked gentlemen, for a moment, suppose the King of Spain offers to sell Texas, and we were to buy it; or suppose we were to accept it as a gift—would the Government of Mexico have any right to complain? We are arguing a matter as affecting Mexico, said Mr. S., in which Mexico has no interest at all.

Mr. COCKE said, in reply to this last argument of Mr. SMITH, that the Government of Mexico had in fact been extended to Texas, and deputies had been elected from that province to the Cortes about to sit in Mexico.

Mr. WALWORTH, of New York, inquired if there was any evidence furnished by the Senate, to show that Mexico has asked for the execution of the treaty? He had opposed this appropriation, he said, not so much on account of the unnecessary expenditure of the sum of \$15,000, as from the important principle which it involved. He asked,

if it was not perfectly apparent that this sum was asked for the purpose of running the line with a Spanish Commissioner, and not with the actual sovereigns of the country which joined us on the South, whose independence we had but a few days since acknowledged? He was not for doing things by the halves. If Mexico was really a free and independent Government, as the Executive and this House had solemnly declared, what right, he asked, had we to run this boundary with the King of Spain? It had been said by the gentleman from Virginia (Mr. ARCHER) that we were bound to Spain by the treaty to run the line with her, and that our Government could not, by its own act, annul that obligation. But, said Mr. W., what made Mexico independent? Was it our recognition, or was it the neglect or inability of the Spanish Government to preserve her sovereignty over that province, which made our Southern neighbors a free people, and prevented the execution of that part of the treaty with Spain? We had done every thing which could be done on our part. The appointment of a Commissioner had been provided for a few days after the ratification of the treaty, and it was now said the appointment had been actually made. Our recognition was nothing more than the official declaration of a fact, which fact, and not our announcement of it, rendered it impossible for us to run the boundary with the Spanish Government. It was, therefore, the inability of Spain to execute the treaty with us, according to its spirit and intent, and not the fault of our Government, which had prevented its being carried into effect. It was said that a Spanish Commissioner had been appointed, and was now in this city, and therefore we must make this appropriation, or Spain would be dissatisfied. Mr. W. said he had understood that such a Commissioner had arrived, but he had also heard that the Spanish Commissioner declined going on to run the line, unless a sufficient military force was sent to protect them while running it. In this Mr. W. thought he had acted wisely, as it was not to be presumed Mexico would look peaceably on, and permit him to run the line with our Government; neither would she consider such a violation of her independence and sovereignty by us as a very friendly act on the part of the United States. She did not deserve to be independent if she would submit to such an aggression. But, said Mr. W., the gentleman from Virginia over the way, (Mr. TUCKER,) has said it was for the Executive, and not for this House, to decide with whom the line was to be run. If, said Mr. W., the Executive had not asked this House to acknowledge the independence of the late Spanish provinces, I would have been satisfied to leave the subject to that branch of the Government, and contented myself with a bare expression of opinion. But the House, as the Representatives of the people of the United States, had been called upon to sanction the recognition of their independence, and to appropriate money to open a diplomatic intercourse with them. This branch of the Government had done so with an unanimity which was unexampled in this country, and it was now too

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late to ask this House to vote for an appropriation wholly inconsistent with that act. Mr. W. said, if any of those who wish for this appropriation would offer an amendment so as to limit it to running the line with the Mexican Government, he would vote for it, although he thought it would be the means of giving a salary to a Commissioner and Surveyor, and creating a useless expenditure, when nothing could be done this year. He had no objection that the Power with which alone we had now the right to act, in relation to this business, should distinctly understand that we were ready to execute the treaty in its fullest extent. He therefore hoped the House would not consent to the amendment in its present shape, but would insist on their disagreement.

Mr. WOODSON made a few further remarks in support of the position which he had before taken.

Mr. BALDWIN, of Pennsylvania, did not think that the situation of the Province of Texas had any thing to do with this question. The simple question was, whether the House would do an act which it was in its power to do—that is, whether it will provide to pay the officers whom we are bound to appoint. Whether those officers, when appointed, can mark the line, has nothing to do with this question. It is not a question now, whether Mexico will agree to the treaty, but whether we will agree to it ourselves. To make this appropriation does not pledge us to force the running of the line against the consent of Mexico. By doing it we violate no engagement, neither do we injure any one. We are called upon to do a thing which we can do, and which, if we do not do, we violate the treaty. If we do not this thing, we undertake to say the treaty is not binding on Mexico, and therefore we will not carry it into effect with Spain. It was no reason for refusing to do an act which we are bound to do—which we have promised to do, that ulterior measures may be necessary satisfactorily to complete the running of the line which the treaty provides for.

Mr. FLOYD, of Virginia, said, he believed it was not only competent to this House to inquire whether or not they would make the proposed appropriation, but that it was their duty. But he would not now debate that question. He rose to say that it was not indeed begging the question, to say that Mexico had no control over the province of Texas, or that its boundary is well understood and well defined. He had believed that New Spain, Guanare, and all the provinces subjected to the Viceroyalty of Spain, formed a part of Mexico; and he had it from good authority, that the Government of Mexico had actually ceded land in the very province of Texas. Would that Government have ceded lands in a province to which it claimed no title? A gentleman over the way asks by what unheard of morality we could refuse this appropriation, and says, Spain would have a right to take Florida from us by arms were we to refuse it. Have we not, said Mr. F., given to Spain more than adequate compensation for Florida? Was not Spain put into the enjoyment of Texas, and did she not subsequently lose it by the revolution in Mexico? Would the United States, after

the Revolution, have permitted Great Britain to undertake to change their boundaries to the West, as established by the treaties between Great Britain, and France, and Spain? The authority of the Viceroy, Mr. F. said, had always extended over the province of Texas. Santa Fe and Rio del Norte were in the province of Mexico, and that was only on the other side of the river from our territory of Arkansas. Was it not there that General Pike got into the Spanish territory? and within a very few years past citizens of the United States have been brought from Mexico, where they had been prisoners for twenty years, for having been found trading on that very territory. If Spain were still in possession of that country, Mr. F. said, he should be for this appropriation; and if those who now hold the sovereignty should wish the line to be run, he should be in favor of appropriating money for the purpose.

Mr. STEWART, of Pennsylvania, said, he should vote for the treaty, for a reason somewhat different from the reasons assigned by any other gentleman. The treaty being made, we are bound to carry it into effect. But there is nothing in the bill which requires the President to carry it into effect immediately. It seemed to be admitted that it was not likely to be carried into effect during the existence of hostilities between Mexico and Old Spain. It would not be carried into effect probably until peace was restored, and the right of Old Spain re-established, or the independence of Mexico recognised by her. The Executive, then, having a discretion allowed to him, will do what circumstances require, either with the Government of Spain or that of Mexico. He should, therefore, vote for this appropriation, to put it in the power of the Executive to run the line, either with one or the other Power.

Mr. NELSON, of Maryland, remarked, that previous to the treaty with Spain, the United States had always laid claim to the territory of Texas as belonging to the United States. Upon what ground? On the ground that it was a part of the province of Mexico? No; but that it was a part of the province of Louisiana. If we now take the ground that Texas was a part of Mexico, then we never had a right to any part of Texas. I put to the members of the House this one question, said Mr. N., which I ask them to answer: Suppose this treaty with Spain had never been made, and Mexico had declared herself independent, would we have consented that she should have extended her authority and sovereignty over Texas? If not, can Mexico rightfully do it now? On what principle can it be said that it is inconsistent to carry the treaty of boundary into effect now, because we have recognised the independence of Mexico? Texas is not, and never was a province of Mexico, and that ground has always been taken by the United States. Unless the House is prepared to say, that the independence of Mexico would have extended itself to Texas before our treaty with Spain, it cannot now refuse the appropriation which is necessary to carry that treaty into effect.

Mr. FLOYD, of Virginia, said, with the gentle-

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man from Maryland, that Texas never was a part of Mexico; and for that reason he now opposed the appropriation. The Government of the United States had a clear title to Texas, but it had not to East Florida, and gave to the King of Spain that very province for Florida. The sovereignty over Texas had been in the hands of Spain, who laid claim to it, and this treaty finally settled it there. But during the time of Spain claiming this territory, and since it was ceded to her, too, she had a Governor in Texas, whose functions were put an end to by the revolution there, and that Governor was amenable to the Viceroyalty of Mexico. Such was the condition of Texas when the treaty was made. Making the treaty, we yielded up all the claim we had. Texas was a province, subject to the Government of Mexico, and must go with it and share its destiny.

The question was then taken on insisting on the disagreement to the appropriation proposed by the Senate, and decided in the negative; and, on motion of Mr. ARCHER, the House agreed to the said appropriation.

The remaining amendment, on which the Senate had insisted, was that which proposed to appropriate \$9,000 for the repairs of the Cumberland road.

Mr. ARCHER moved that this House insist on its disagreement to the said amendment, and ask a conference with the Senate on the subject.

Mr. MALLARY opposed the motion. He hoped the amendment of the Senate would be agreed to. Some gentlemen, he understood, when this question was on a former occasion before the House, voted against it on Constitutional grounds, but he believed a large majority of the House entertained a different opinion. The great objection, however, was, that this provision was contained in an appropriation bill, when it ought to be done by a special act. It was then known that a bill was in progress to erect toll gates on the road; but he would submit to the House whether it could be expected, or he might say possible, judging from the course of business for some days past, that any bill for the erection of toll gates upon it can pass the House at the present session. It must inevitably be laid over to the next, and in the meantime the road is going fast to ruin and decay. If, indeed, it is the intention of Congress to abandon the road, it may be worth while to refuse a concurrence. But, if such was not their intention, it was very apparent that something must be done, either by passing the law alluded to, or by making this appropriation, and as the former could not be done, he hoped the latter would not be refused.

Mr. WOOD remarked, that yesterday economy seemed to be the order of the day, and he was now surprised to see gentlemen advocating an appropriation for an object which, in his opinion, was clearly unconstitutional. If, when the framers of the Constitution of the United States had adjourned, the question had been asked them whether they had made provision for making, repairing, and overseeing roads, what must have been their answer? Can any man doubt that they would have

replied in the negative? Mr. W. had expressed his sentiments upon this subject on a former day, and he would not renew the discussion of the Constitutional question now. But he did object to the manner in which it was brought forward, in an appropriation bill. Such bills were only to provide for carrying into effect existing laws. They combine so many interests as always to insure their passage, and it was therefore wholly wrong to permit any clause of an original character to be attached to them. Mr. W. would rather see this appropriation bill sink, than to have such a principle established. He thought the House ought to make a stand against it. And why, he asked, had not gentlemen brought forward before this, the law for the erection of toll gates? It had been suffered to lie dormant, and ought not now to be brought forward as an argument to press on this appropriation. Besides, this, he contended, was a new principle. He had examined the alleged contract with the States beyond the Ohio, and was fully satisfied that it did not extend to such an appropriation as this. That was a contract only to *make*, not to *repair* the road. The contract was fulfilled. It was done—and we are now called upon to begin a new course—a course of repairs, and the next session we shall hear of another mountain having fallen into the road. This was not a precedent for an endless expenditure, which he hoped the House would not agree to establish.

Mr. FARRELLY rose only to make a statement of a single fact, which was, that he had heard by a colleague of his, that he had been informed by a respectable gentleman of Wheeling that the road in question from that place to Cumberland was in good repair.

Mr. COOK remarked that there was no probability that the bill for erecting toll gates could pass at the present session. Many gentlemen, he observed, regarded it as involving an important Constitutional question, and he believed the Speaker was one of the number, and who, on such a question, would probably wish to express his sentiments on the floor of the House. It was therefore utterly hopeless to expect a decision upon it during the few remaining days of the session. The preservation of this road was a matter of deep interest to many sections of the country on both sides of the mountain, and it was evident, as it passed through a rough country of scattered population, that it must be supported, either by the travellers who pass over it, or by this Government—and as the bill for the former cannot pass, it is equally clear that the road must fall to decay, unless the latter alternative is adopted, to the extent of this small sum of nine thousand dollars.

Mr. F. JONES inquired of the Speaker what would be the proper course to be taken with the bill now on the table, to erect toll gates on the Cumberland road. [The SPEAKER was understood to say, that, according to the rules of the House, it would be necessary that the bill should be referred to a Committee of the Whole, either in the course of the docket, or on the state of the

Union.] Mr. JONES continued, and observed that there was no bill on the docket of a similar character with the present, and he inferred that it would be impossible to obtain a determination upon it on its merits at the present session. Mr. J. would reply one word to the gentleman from New York, (Mr. Woon,) who had said that he would rather this whole bill should sink than make the appropriation. If that gentleman thought it unconstitutional, he was right to express such an opinion. But he admits that a contract was made with the States west of the Ohio, on the faith of which this road was made. Against the fulfilment of that contract he makes no objection. But if it was not unconstitutional to make a road, how can it be unconstitutional to repair it? And where was the clause in the Constitution, which, in terms, authorized the erection of fortifications in New York? It could not be found. It was an inference from the general authority that is granted for "the common defence and general welfare." And is not this road of a similar character? Is not a military road as important to the common defence as a fortification? Mr. J. would not pursue the argument, nor exhaust the patience of the House, but he was fully convinced that, unless the House should concur in this amendment with the Senate, nothing would be granted for that road at the present session.

Mr. WRIGHT expressed his views briefly in favor of a concurrence in the amendment proposed by the Senate. He thought it too late to stir up the old and oft-rejected doubt of the constitutionality of the appropriation. He argued the propriety of the measure upon the ground that it came within the spirit of the original act; for, if the road was so defectively made as to want repairs at this time, it was evident that it did not come up to the contemplation and intent of the Congress that granted it. He also contended that a measure of this sort, coming from a co-ordinate branch of the Government, was entitled to great respect.

Mr. A. SMYTH remarked, that the sum proposed was not large in amount, but he could not consent to grant a single dollar in a case which he deemed to involve a Constitutional right of the people. He alluded to Parliamentary usage, and observed that the House of Lords, in England, had no right to interfere in money bills at all. The analogy of the principle was the doctrine of our Constitution, and a departure could extend no further than the letter of the instrument. The House of Representatives were the guardians of the public purse. And shall we yield, he asked, a single vote on this point to the Senate? He was not willing to do so. They had no right to interfere, except in particular and excepted cases. Mr. S. did not believe that the Congress had power to authorize the erection of toll gates. It was not within the scope of the specified and limited powers that were granted. If it was admissible, it would authorize Congress to assume a power over the police of the country. Mr. S. expressed his determination to oppose any such assumption of authority not warranted by the Constitution. He also took a view of the history

and practice of our Government in relation to this subject. The facts, he said, were too recent in memory to authorize such a course, and he referred to the opinions expressed by President Madison, in relation to the powers of Congress on the subject of internal improvements. The advocates of the appropriation, he said, had indicated a willingness to give up this appropriation if the other bill could be passed. But he thought that subject was too important to be decided on, except upon mature and solid investigation. It involved the question whether Congress can appropriate the people's money to execute a power which Congress does not possess. In reply to the question of the gentleman from Tennessee, (Mr. JONES,) in relation to fortifications, he observed, that the general power to provide "for the common defence and general welfare" must be executed, by powers that were specifically defined; and he adverted to the terms of the Constitution to show that the subject of fortifications was specifically defined, and therefore within the rule. With respect to the compact with the States west of the Ohio, he contended that it stopped at the building of the road, and by no rule of construction could it be extended further.

Mr. STEWART said he had determined not again to trouble the House with a single word on this subject, but he felt himself constrained to correct the statement made by his colleague, (Mr. FARRELLY,) who had said that the road was not out of repair; and, to prove it, he has stated that one of his colleagues had seen a man who had seen the road, who had told his colleague, who had told him that the road was not out of repair. This kind of evidence was, he contended, too remote, especially when there were many honorable gentlemen in the House who had themselves seen the road, and who, he was persuaded, would concur in stating that the banks had so fallen in, in many places, as to fill the water channels along the side and throw the water to the centre of the road. He stated at considerable length the situation of the road, and the injury it had and would sustain, if nothing were done for its preservation; and, since he was up, he begged the indulgence of the House while he replied to a few of the Constitutional objections of the gentleman from Virginia, (Mr. SMYTH,) who had denied the right of the General Government to legislate on this subject, although it had been a standing subject of legislation for the last twelve or fifteen years, and had received the sanction of three Presidents, Jefferson, Madison, and Monroe, some of whom also entertained doubts of the power of Congress on this subject. He said he would ask the gentleman from Virginia a question: On this road the great United States mail, between the East and West, runs daily—suppose, a probable case, that one of those steep mountains slip down, and completely block up the road, has the General Government no right to remove this obstruction? Must the mail stop? No; the Government were bound to transport the mail, and it was their duty to remove the obstruction, and this was the purpose of the appropriation. The Constitution had given the power "to

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establish post offices and post roads," not post routes, as the gentleman would have it; the power was given over roads as contradistinguished from routes, otherwise the word routes would have been introduced by the framers of the Constitution. Besides, the same provision which conferred the power to regulate commerce with foreign Governments, had given it to regulate it *between the States*, which was the object of this road. But we are told, said he, the General Government must have this power by *express* terms. Where, he would ask the gentleman, did he find the power granted, by the express terms of the Constitution, to pass a pension law, a law granting medals, or for the benefit of the arts and sciences, agriculture, or *manufactures*? Not one of these words were found in the Constitution; yet they were the almost daily subjects of legislation. The right was derived incidentally from the general power to promote the *general welfare, &c.* But, is it a violation of State rights for the General Government to expend its money for the benefit of the States? Those States most complained who did not feel this violation of their rights. It was not an exercise of power, but a surrender of money, which was power, by the General Government, for the benefit of the States, and if Virginia was the recipient of the benefit, she would not thank the gentleman for the objection. But the Constitutional objection, in this case, had long ago been settled, and the only question now presented was, whether the House would abandon the road to destruction, and lose the whole of the money which had been expended. He could not give a name to such policy. He hoped it would not be adopted.

Mr. BALDWIN had no disposition, he observed, to discuss the merits of the question, nor should he have risen but to reply to the observations of his colleague (Mr. STEWART) in relation to himself. A few days since he (Mr. B.) saw a gentleman from Wheeling, a merchant of that place, possessed of large property there, and of most respectable character. He (Mr. B.) inquired of him what was the state of the Cumberland road. The gentleman replied that it was very good; and further remarked, in respect to whatever more it wanted, that, as Congress had refused to repair it, they would do it themselves. These, he said, were facts, and if his colleague wished him to name his informant, he would do so. The information had come from him, and he could substantiate it, notwithstanding the sneering manner in which his colleague (Mr. STEWART) had thought proper to treat it. He would add one word respecting this representation which his colleague had made about the poor and sparse population where this road run. So far from being a new country, it was settled as long ago as Braddock's defeat. It was now well settled and rich. The farmers upon it were more wealthy than those in the correspondent parts of the Pennsylvania road, and who, he could assure the gentleman, would not, if Congress had built a road for them at so much expense, come forward like sturdy beggars, and ask them to keep it in repair.

Mr. RHEA opposed the concurrence, but his ob-

servations could not be heard by the Reporter with sufficient distinctness to allow him to attempt a report of them.

Mr. WOODSON remarked that he had been hitherto in a great measure indifferent to this appropriation, because he considered it as inadequate to the great purpose for which it was designed. But when it became apparent that nothing further could probably be done at this session to repair it, he felt it his duty to come forward in support of the concurrence. He regarded that road as a proud monument of the policy and power of the country; and so long as he thought the bill for the erection of gates would pass at this session, he had not thought it necessary to press this appropriation. It is now evident that the bill could not be acted upon. The West, he observed, had no peculiar claim on the Government, but he could entertain no doubt that the House was fully disposed to promote the facilities of intercourse, and the great objects for the obtainment of which society was founded. This was the only road that leads from the East to the West. He thought it desirable that the Capitol should be the central point of the Union, from which intelligence should be imparted and received. Mr. W. replied at considerable length to the observations of the gentleman from Virginia, (Mr. SMYTH,) on the Constitutional question he had raised. He adverted to that instrument to show that the Senate, even in revenue bills, had specifically the power of proposing amendments; and he also animadverted upon the various other positions which that gentleman had taken.

Mr. JACKSON, of Virginia, rose to correct an error with respect to the expense of making this road. It had been stated at \$1,800,000. But it was greatly exaggerated; for, by a statement from the Treasury Department, he found it had cost only \$1,641,774. The sum now asked for was only what had been saved by economy from what had been heretofore appropriated for making the road, being the surplus of the appropriation for the purpose. With respect to the constitutionality of the question, he would observe that, at the first session of the 15th Congress, \$10,000 were appropriated for roads, one of which was from Fort Stoddard to Fort Hawkins. Mr. J. was opposed to the policy of making permanent and annual appropriations for repairs, but, as the other bill could not be acted upon at this session, he thought it but an act of just and liberal policy to concur with the Senate in the amendment proposed.

Mr. F. JONES was aware of the anxiety of the House to do the business before it, and of the fact that there were more bills on the docket than could be disposed of at the present session. But there was not, in his opinion, at that time, a question of more vital importance than the present before the House. It was a question, he said, whether you will or will not suffer the Cumberland road to be demolished. He would not trespass long on the attention of the House, but he could not refrain from making a very brief reply to the observations of the gentleman from Vir-

ginia, (Mr. SMYTH.) He well knew the ability and research of his able and learned friend. And he also knew how natural it was for a man of talents, if unhappily misled himself, to mislead others. That gentleman was unwilling to permit the Senate to interfere with the money bills of this House. I, said Mr. J., have always been an advocate for the rights and privileges of this House. But this is even higher ground than I could presume to take. And if that gentleman finds a power contained in the Constitution which authorizes the Senate in such cases to amend, it was fair to presume that he would support this amendment. Mr. J. then alluded to the clause of the Constitution which he contended was a clear warrant for the limited right they had exercised in this case. And is there nothing, he asked, to be yielded between the two Houses—no deference to be shown by the one to the views of the other? Such a doctrine, he thought, would suit any other assembly better than this. Shall it be said, asked Mr. J., that we will stick to a provision which we have made, right or wrong, merely because the Senate has recommended an amendment to it? Many gentlemen, he said, had heretofore voted against the appropriation, because they believed the bill for erecting toll-gates would come up at this session, and, by its passage, supersede the necessity of such an appropriation. But it was not now even contended that it could be acted upon at the present session. The gentleman from Virginia (Mr. SMYTH) had alluded to the Presidents of the United States who had expressed opinions adverse to this power of Congress. But it would be remembered that one of these very Presidents signed the law by which the making of the road was authorized, and his successors had signed laws for its continuance. The gentleman, said Mr. J., has found out, it seems, that no right can exist under the Government to expend money, unless it is appropriated by law. He, Mr. J., would have been glad if the gentleman had found it out at an early part of the session, when in a speech of three hours he defended the Secretary of War for having exceeded the appropriations in the Indian department. Mr. J. would add a further remark in respect to the contract between the United States on the one part, and the States west of the Ohio on the other. Suppose they were brought together as individuals to explain the transaction. Is it supposable, when they agreed that the road should be made, that they did not know enough to foresee that it must be kept in repair? And, if so, whose business was it to make the repairs? Certainly as much that of one State as of another—of Georgia, as much as of Ohio, and of Maine as much as either. And in the case alluded to by the gentleman from Virginia, (Mr. JACKSON,) the sum granted for the road in Georgia, was for repairs—so that the question of constitutionality has been already decided. Mr. J. had no personal interest to subserve in the present question, but it was the honest wish of his heart that the appropriation might be made to put the road in repair, so that it might serve as a bond of union between the East and

the West, and perpetuate the harmony of the confederated family.

Mr. HEMPHILL was opposed to the appropriation. He was a member of the committee by whom the bill referred to for erecting toll-gates on the Cumberland road was reported, and had moved to discharge the Committee of the Whole from the further consideration of it, in order to bring it directly before the House, so that it might be decided upon at the present session. He had examined the subject attentively, and was satisfied that it was proper to pass the bill; and he thought the question might soon be determined. The discussion would not probably occupy more than a day. He considered the Cumberland road a great national object, and felt no hostility to it. But he thought it ought to be repaired at the expense of those who use it.

The question was then taken—Will this House insist on their disagreement to the amendment of the Senate? And it was decided in the affirmative without a division.

FRIDAY, April 26.

Mr. RANKIN, from the Committee on the Public Lands, to whom was referred a bill from the Senate to ascertain claims and titles to land within the Territory of Florida, reported the same with sundry amendments; and the bill, &c., was committed to a Committee of the Whole.

Mr. SERGEANT, from the Committee on the Judiciary, to whom was referred a bill from the Senate for the better organization of the district court of the United States in the State of Louisiana, reported the same without amendment; and the bill was ordered to lie on the table.

Mr. ALEXANDER SMYTH, from the select committee appointed on the subject of insolvency in the District of Columbia, reported a bill for the relief of certain insolvent debtors. [This bill provides that so much of the act of 1803, as declares that the provisions of that act shall not be construed to extend to any debtor who shall not have resided within the District of Columbia for twelve months preceding the date of his application, be repealed, from and after the passage of this act.]

The bill was read twice, and, without debate, ordered to be engrossed for a third reading tomorrow.

Mr. HEMPHILL moved that the House do take into consideration the bill to provide for the preservation and repair of the Cumberland road—which was agreed to be taken up, and on further motion of Mr. H. was committed to a Committee of the Whole on the state of the Union.

Mr. SAWYER moved that the House take up the joint resolution for an earlier meeting of the next session of Congress, professing that, if taken up, he proposed to submit it to the vote without debate. But the House, by a large majority, refused to consider the same.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting a report on the petition of Charles Grice;

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which, on motion of Mr. SAWYER, was ordered to be laid on the table.

Mr. TAYLOR submitted the following resolution, accompanying it with remarks, showing the expediency as well as justice of the course proposed by it:

Resolved, That the business now depending before the House, committed to a Committee of the Whole, other than upon the state of the Union, be arranged by the Clerk, under the direction of the Speaker, in the following order.

1. Private bills originating in this House.
2. Private bills originating in the Senate.
3. Public bills and resolutions originating in this House.
4. Public bills and resolutions originating in the Senate.
5. Unfavorable reports.

The resolution was adopted.

The unfinished business of yesterday being announced, (viz: the bill to reduce the compensation of Senators and Representatives in Congress)—

Mr. ROSS moved to lay it on the table, his object being to get at the bill for erecting toll-gates on the Cumberland road.

Other gentlemen stated their intention to propose to take up other business than that, if this bill should be laid on the table.

The question to lay the bill on the table, was decided in the affirmative by a vote of 71 to 54.

A message from the Senate informed the House that the Senate recede from their ninth amendment to the bill, entitled "An act making appropriations for the support of Government for the year 1822;" they agree to the amendment of this House to their amendment to the bill, entitled "An act making appropriations for the public buildings;" and they agree to the amendment of this House to their amendments to the bill, entitled "An act to provide for paying to the State of Missouri three per cent. of the net proceeds arising from the sale of the public lands within the same," with the amendments thereto proposed by the committee of conference. The Senate have passed a bill of this House, entitled "An act making appropriations for the support of the Navy of the United States for the year 1822," with amendments, in which they ask the concurrence of this House.

JUDICIAL COURTS.

Mr. STEVENSON, of Virginia, rose, and remarked that the resolution which he was about to offer to the House, was one of an important and interesting character. It involved, in his opinion, considerations of deep interest to the nation, and was intimately connected with the union and prosperity of the States. He knew very well that the controversies which had lately arisen between the Federal and State Governments, as to their rights and powers, were of extreme delicacy and importance, and ought to be approached with much caution and deliberation. It was, however, due to himself to say, that, in moving in this business at this time, he was influenced by no narrow or local consideration, or party feeling. He had no

desire to abridge the powers of the General Government, or extend those of the States. The resolution was offered in a spirit of peace and forbearance, and from a sense of duty to himself and the State which he represented, from the performance of which he did not feel himself at liberty to shrink. It was, moreover, due to those States, in which the subject has been lately so much agitated, as well as to the nation, to have it fairly discussed and deliberately decided; and, if this section of the judicial act was not justified by the Constitution, it was the duty of Congress to repeal it. He would therefore offer the resolution, with a view that it might be laid upon the table until the next session of Congress, and called up at an early day for discussion. He expressed a hope that it would be the pleasure of the House to permit it to take this course, and would submit a motion to that effect. The resolve is as follows:

Resolved, That the Committee on the Judiciary be instructed to prepare and report a bill repealing the twenty-fifth section of the act, entitled "An act to establish the Judicial Courts of the United States."

The resolution was received, and ordered to lie on the table, according to the wish of the mover.

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Mr. HEMPHILL, from the Committee on Roads and Canals, made a general report upon the several resolutions and petitions to them referred at the present session, and upon which they have not heretofore specially reported; which report was read, and ordered to lie on the table. It is as follows:

That, after carefully examining the different resolutions and petitions submitted to them, they have thought it best to make a general report, embracing the several objects of reference.

The committee have already reported that they considered it expedient to have a certain section of the State of Maine explored, for the purpose of ascertaining, by survey, the proper route for a road, and whether it would be useful in a military point of view, from the Penobscot river, at or near Bangor, to some point in the eastern boundary of the State; and, also, in favor of a survey being made to ascertain whether it would be proper for the General Government to aid in the construction of a canal in the town of Gloucester, in Massachusetts, to connect the waters of Boston and Ipswich bay, in order to avoid the tedious and dangerous passage round Cape Ann.

The committee will bring the remaining cases referred to them into the view of the House.

The Legislature of the State of New York have passed the following resolution, which has been transmitted and referred:

"IN ASSEMBLY, April 10, 1822.

Resolved, (if the honorable Senate concur herein,) That our Senators in Congress be instructed, and our Representatives requested, to call the attention of the National Government to the great importance and public utility of improving the navigation of the Hudson, so as to open a free communication and direct intercourse for vessels of all descriptions with the internal canal navigation of the State of New York.

The design of the resolution, as the committee un-

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derstand, is, to remove sand bars that exist in several places in the Hudson river, and impede its navigation by vessels over a certain size. To improve the navigation of the tide waters of this river would require an expense of about two hundred thousand dollars, and is believed to be practicable, either by the construction of piers and dams, in such places as may be proper to concentrate the current of the river, so as to give it, with the assistance of the engine called a mud turtle, where necessary, power sufficient to remove the bars, and to prevent future deposits; or avoiding them by a lateral canal, or a combination of both.

It appears to the committee to be an object, which, in an eminent degree, is deserving of the aid of the General Government, to perfect the navigation of this river, which exhibits the phenomenon of carrying its tide waters through a mountain, and is destined to communicate with such a range of lakes and fertile countries.

Resolutions of this House have been referred, instructing the committee to inquire whether it is expedient for the United States to give aid to the Delaware and Raritan Canal Company, and to the Chesapeake and Delaware Canal Company.

The advantages to be derived from these contemplated canals, as forming central links in the great line of inland navigation along the Atlantic coast, is apparent; they would afford a cheap transportation for merchandise and munitions of war, free from the dangers of storms and enemies: on this subject several committees have reported in favor of their great importance and public utility.

A resolution has been referred, instructing the committee to inquire into the expediency of appointing commissioners to examine and report as to the practicability and probable expense of connecting, by a canal, the Potomac and Youghiogany rivers; and sundry petitions have been referred in pursuance of the same object, which state that these rivers approach each other within the short distance of two miles; and that the springs and rivers which supply them are amply sufficient to furnish water on the summit level; and that the expense would be inconsiderable, compared with its great importance.

Petitions have also been referred, earnestly soliciting the attention of Congress to the navigation of the Potomac river. The petitions state that "this stream presents a direct communication from the Seat of the General Government, and the tides of the ocean, to the gentle and unobstructed waters of the West: the portage across the Allegany mountain is about seventy miles, by the national road now completed. From Cumberland, on the Potomac, the commencement of this road, to the tides at the City of Washington, is the distance of one hundred and eighty-eight miles, by the river; and the total fall is seven hundred and fifteen feet, or near four feet in each mile; this fall, with the scanty supply of water in dry seasons, renders the natural channel impracticable for useful navigation; and, to remedy this defect, a canal and lock navigation must be resorted to for the whole distance. The expense to be incurred in completing this improvement, it can be easily ascertained, would not exceed two and a half millions of dollars, estimated at the ordinary cost of such works, where obstacles of equal or greater magnitude have been overcome."

The committee need not endeavor to enumerate the many and great advantages to be derived from a connexion of the river Potomac with the Western waters;

they will only observe, that the project becomes more elevated and interesting, when they consider the practicability of extending this inland navigation to the lakes; which, by means of the New York navigation and the proposed Atlantic canal, would form an island in the heart of the Union.

A memorial from the Legislature of the State of Alabama has been referred, praying aid of the General Government to connect some of their valuable streams. It states that the Alabama river commences, and becomes capable of a water transportation, within eight or eleven miles of a stream equally susceptible of being rendered navigable, and which empties into the Tennessee river; that the latter receives the tribute of several other streams, which take their rise and become navigable in the State of Virginia, passing through some of its most productive lands, and watering in their course the whole eastern section of the State of Tennessee; that the dividing ground separating these waters affords a favorable opportunity of connecting the waters of the Alabama with those of the Tennessee river; and that the distance required for the produce of Tennessee to reach a market on the seaboard would be reduced from nearly two thousand miles, to New Orleans, to six or seven hundred miles, to the Mobile.

The memorial likewise calls the attention of Congress to the communication of the Pensacola bay with that of Mobile.

On the important subject of the internal improvement of the country, the committee have adopted what they consider the only true plan, by reporting a bill to procure the necessary surveys, plans, and estimates, on the subject of roads and canals. This is a measure recommended by the able and valuable report of the Secretary of the Treasury of the 4th of April, 1808. The following are abstracts:

"As an important basis of the general system, an immediate authority might also be given to take the surveys and levels of the routes of the most important roads and canals which are contemplated—a work always useful, and by which the practicability and expense of the undertakings would be ascertained with much more correctness than in this report." "A moderate appropriation would be sufficient for those several objects."

The execution of this measure would present to Congress a full view of the subject, and enable them the better to decide on the propriety of engaging in these undertakings. It would lay the foundation of a well-digested and regular system, and it would not require any immediate demand on the Treasury for a large amount. It is believed that fifteen or twenty thousand dollars would be sufficient; and the expenditure of this sum would be divided between three and four years, as it would consume that period to obtain the information.

For many reasons, the committee have supposed that the information could be more satisfactorily obtained by the corps of engineers than from any other source. They are a well-disciplined and organized body, and composed of the most capable of our scientific men; and it belongs peculiarly to the topographical corps to explore the country, and to give accurate knowledge of such parts as may be deemed necessary by actual surveys. In this manner, a similar corps has been employed in France, through which every necessary information, relating to the face of the country, is acquired, and deposited in what is called their military bureau.

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The corps of engineers, with the assistance of two civil engineers, and the aid of others who can be detailed to do duty in that corps, are believed, by those best acquainted with the subject, to be sufficient. They proceed by a regular system, and report monthly. Young cadets, as they leave the Military Academy, can be employed. It will give them experience, and advance their usefulness to their country. It will render the science appertaining to the Engineer department more perfect and extensive, and obviate the necessity of employing foreign engineers. There are further inducements, as it respects economy; they are already in the employment of the Government, and can have no motive to delay the work. They can be actuated by no other than an honorable ambition to establish their own reputation, and to show that their institution is valuable to their country. It is the practice to allow them but one dollar and fifty cents per diem beyond their usual compensation, which is merely to meet occasional expenses. The difference of expense in obtaining the information by the corps of engineers, or by commissioners and common surveyors, would be exceedingly great. The information, when obtained, would be valuable; for it cannot be otherwise than important to be acquainted with the capacities of the country for internal improvements. It would be useful to the States who have not the same economical means of acquiring it; and this part of the subject cannot be embarrassed by any Constitutional question.

The commencement of internal improvements upon a large scale has generally been attended with difficulties, and improvidently delayed. The people of England, after having experienced their advantages, are astonished that such works had not been undertaken earlier. In the beginning of the reign of George III. the first charter to the Duke of Bridgewater was obtained, and his canal is said to yield eighty thousand pounds sterling per annum. The growth of canals became so rapid, that George III. lived to see a hundred completed during his reign; and it is a matter of surprise, now, that the Government suffered them to be carried on without a participation, which would have produced so much revenue.

In the authority from which the above is derived, it is stated that more than two thousand four hundred miles of canalling have been completed, and that scarcely any district of country is more than fifteen miles from a water communication.

Nothing but the ardency of the most energetic minds could have overcome the opposing obstacles in the State of New York. By some, the project in the beginning was looked upon as romantic; they began without resources, relying upon the credit of the State, and, in the course of six years, will have completed 414 miles of canalling, which averages nearly a quarter of a mile for each working day, including the locks; the expense of the undertakings, it is now ascertained, will fall below the original estimates; the whole will not exceed five millions of dollars. The profits of these works, from what appears to be a reasonable calculation, will, in a few years, extinguish the expense of making the works, and afterwards leave an annual revenue to the State of more than a million of dollars. These works are of high importance to the nation; they show what can be done, and that a Government, with proper management, can execute great undertakings with despatch and economy: they have afforded, moreover, the most valuable experience in the science of engineering.

We must be convinced, from the example of other nations, that the natural advantages of this country will not remain unenjoyed forever; national improvements will at some time be prosecuted and perfected; but why should we be deprived of their eminent advantages by further delay?

It is said that the proper period has not arrived, and that we have neither resources nor Constitutional power.

As to the time, we have opinions from different quarters that are entitled to our best respect.

In 1807 the attention of the Senate was directed to this subject, and it was in pursuance of a resolution of that body that the Secretary of the Treasury made his report. Able reports have been made in the Senate at different times, recommending some system of internal improvements.

In 1817 a bill passed both Houses of the Legislature on this subject, which was rejected by the President upon Constitutional scruples.

The object of the bill was to set apart and pledge a fund for the construction of roads and canals, and improving the navigation of water-courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions necessary for the common defence. For this purpose the dividends from the shares belonging to Government in the Bank of the United States were to be pledged for twenty years during the charter, and the proportion of the moneys to be expended on the objects in each State was to be in the ratio of its representation in the most numerous branch of the National Legislature. Mr. Madison and the present Chief Magistrate both have recommended the subject of internal improvements to the attention of Congress, as an object of sufficient magnitude to produce a change in the Constitution: neither suggested the idea that the subject was prematurely pressed upon the nation.

In 1818 the House of Representatives passed two resolutions, requiring the Secretary of the Treasury and Secretary of War to furnish information respecting internal improvements.

When we reflect on the influence to which such authorities are entitled, and see that the nation has increased to nearly ten millions, we think it ought to be admitted that the time has arrived when the national improvements ought to be commenced.

As to the resources, New York commenced her immense undertakings on the credit of the State; and it is believed that it would not, in a just comparison, be a greater undertaking for the Union to accomplish the most prominent objects of national improvements.

In relation to the resources, it ought to be considered how much the country would be benefitted, and, in the casualty of war, how much would be saved. Had the country been improved by roads and canals during the late war with England, a doubt can hardly be entertained that as much money would have been saved as would be sufficient to complete them. Similar events may occur again, and it would be wise to prepare for them; and especially so when the improvements, independent of this consideration, would be worth infinitely more to the country than the amount of their cost.

In the course of three or four years, which will be consumed in procuring the surveys and estimates under the proposed bill, our finances may be improved. But suppose no favorable change is produced, the improvements must be a work of time; and if it should be

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necessary to resort to loans, large sums would not be wanted at any one time; and if proper objects are selected in the beginning, a revenue will be coming in long before the whole is completed. A canal along the Atlantic coast, it is probable, would yield more than six per cent. immediately after its completion; the public expenditures would be spread over a period of perhaps twenty years; and if, during that time, the General Government, with the aid to be derived from incorporated companies, would expend twenty millions of dollars, the advantages to the country would be incalculable; and the revenue to be derived from the improvements, if it did not meet the interest of the capital expended, it cannot be expected that it would fall far short of it. In time, there can be no fear but that it would exceed the interest, and become a source of revenue to the Government.

Looking forward to the completion of the works, (say twenty years,) and supposing all the money to be borrowed, if we advert to the usual course of nature, we can perceive that the pension fund might be applied to the extinguishment of the debt. It would be passing the fund from an object of charity to one of permanent utility to the country.

We will suppose the last case, and the one which is most unfavorable. Suppose the debt, together with the improvements, go down to posterity; it would only create an obligation on those who would have the enjoyment of the improvements to pay the debt. There does not seem to be the same pressing obligation on us to pay off such a debt as is in the case of most others.

If we are to wait until the public debt is paid off, the scheme of internal improvements may as well be abandoned at once. We have no good reason to expect a more favorable time to make a beginning.

As to the power, it is not customary in reports to enter into a minute discussion of Constitutional points. The committee will not, therefore, take up the Constitution to examine it. Enough, they think, has been done on the part of Government to preclude this question from further inquiry. Nothing can be more desirable to society than to arrive at a settled construction on the different parts of the Constitution. Versatility on such questions would impair the character of the nation, and be detrimental to its interest. The committee will merely observe, that, in their opinion, Congress can possess no power except that which is derived through the Constitution. Consent or contract cannot confer power; and, if Congress has no power to construct roads and canals, and maintain a control over them, it can have no power to purchase lands, or appropriate money for the purpose of making them; but it has been the constant practice to allow to the new States five per cent. of the net proceeds arising from the sales of public lands, to be laid out in the construction of roads and canals. Three-fifths are generally to be expended within the States, and two-fifths are to be expended under the direction of Congress, in the making of roads leading to the States. From forty to fifty thousand dollars are annually expended in this manner.

In 1806 the President was authorized by Congress to open a road from Nashville, in the State of Tennessee, to Natchez. This road passes through a State, without asking consent. In 1809 the President was authorized to cause the canal of Carondelet, leading from Lake Pontchartrain, by way of the Bayou St.

John, to the city of New Orleans, to be extended to the river Mississippi. The Cumberland road has cost one million eight hundred thousand dollars, which exceeds the proceeds arising from the sales of public lands in that State more than one million of dollars. How is it possible to reconcile these acts with the idea that Congress possesses no power to construct roads and canals? If there should ever be a construction of the Constitution dangerous to liberty, there will be an apology for repeated resistance; but when there has been a series of legislation in pursuance of a construction of the Constitution which is calculated to promote the best interests of the country, it is not consistent with wisdom, or the peace and welfare of society, to disturb it.

In what age or nation has the power of improving a country been wilfully abused? Even the unsuccessful attempts at great undertakings have received the admiration of mankind. No power can be more safely placed in the hands of the representatives of the people; and it may be truly said, that, among the objects of a national character, which at intervals engage the patriotism and resources of a nation, none are more beneficial, and none so permanent, as the internal improvements of a country. While others, with the institutions that gave them birth, may be effaced even from remembrance by the flow of time, these will remain as lasting as the rivers they connect, to be enjoyed and admired as long as generations are permitted to exist.

The committee, upon the whole, do not deem it expedient to recommend the immediate prosecution of any work; they think that some well-digested system ought hereafter to be devised by Congress, which can be done with greater propriety when the surveys and estimates shall have been received, by virtue of the proposed bill already alluded to.

They therefore offer the following resolution:

Resolved, That it is inexpedient at present to authorize the expenditure of any money on any of the objects referred, except to carry into effect the bill reported, entitled "A bill to procure the necessary surveys, plans, and estimates, on the subject of roads and canals."

SETTLEMENT OF PUBLIC ACCOUNTS.

Mr. RICH moved that the House take up for consideration the following bill:

Be it enacted, &c., That, in the settlement of accounts of persons remaining charged on the books of the Third Auditor of the Treasury with public moneys advanced prior to the first day of July, one thousand eight hundred and fifteen, the proper accounting officers be and they are hereby authorized to admit to the credit of such persons, respectively, the amount of any expenditures made by them which were at the time authorized by law or regulations, notwithstanding regular vouchers for the same may not be produced, if the impracticability of producing such vouchers shall be proved, to the satisfaction of the said accounting officers; and if the evidence exhibited in lieu thereof shall be the best the nature of the several cases will admit of, and such as would be received in courts of justice: *Provided, nevertheless*, That the credits to be allowed shall in no case exceed in amount the sums with which such persons, respectively, shall be charged on the books of the said Third Auditor.

The House agreed to consider the same; when—

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Mr. COCKE moved an additional proviso to the bill, in the following words:

"And provided, also, that the said accounting officers shall not receive the evidence of the party, or any one interested."

Mr. ROSS opposed the proviso. He did not perceive any good reason for excluding that testimony in this case which was admitted in ordinary cases. Where, he asked, was the use of admitting into this bill a new mode of proof which shall go to exclude a great proportion of the claims to which the bill refers? It would destroy, he contended, almost wholly, the efficacy of the bill.

Mr. MCCOY remarked that the bill puts the persons to whom it relates on no other footing than they now stand on. The oath of the party was not now relied on to prove a claim, unless it was supported by corroborative testimony.

Mr. COCKE was unwilling that there should be a departure in this case from the ordinary rule of law. The object of the bill was to introduce other testimony than is now required in the settlement of accounts at the Departments. It was true that in the ordinary courts of justice, in case of the loss of a paper, the oath of a party or other inferior evidence was let in as proof. But if this bill should pass without such a proviso, he thought it would open too wide a door, and would lead to consequences which the House ought to guard against.

Mr. STERLING, of New York, said, the gentleman from Tennessee could not have adverted to the language of the law, or he would not have sustained his amendment by the arguments which he had offered. The law says, that no testimony shall be received, except such as would be received in a court of justice. He hoped, therefore, the amendment would not be adopted, as it would go to defeat the whole object of the bill. He did know that there were many officers of the late Army who had suffered extremely in character and property, because of not being able to settle their accounts, in consequence of obstacles of form merely. Such testimony ought to be admitted in the settlement of accounts as is the best the case will admit of.

Mr. WRIGHT also expressed his hope that the amendment would not be agreed to. He thought it would be very hard that a rule should be made for the case of these officers which was not applied to the case of persons in civil life in courts of law. In the courts of Maryland, and of most of the States, any person having a claim against any individual, was allowed to establish it by his own oath, to a certain amount. He did not see why equal justice should not be done to those having claims on the United States, as if against individuals—particularly when claiming to relieve themselves from unjust charges.

Mr. RICH observed that the bill related only to accounts that accrued during the late war, and contained no other provision than is every day admitted by Congress in individual cases. It was even more rigid than laws usually are in such cases, inasmuch as it subjects those who testify falsely to the pains and penalties of perjury. As

the law now stands, the oath of the party is required, even if he produces other proof, so that the proviso would rather relax than strengthen the securities of the Government against error or fraud.

The question was then taken on Mr. COCKE's motion, and the proviso was rejected.

The bill was then ordered to be engrossed for a third reading.

CUMBERLAND ROAD.

The House then, on motion of Mr. HEMPHILL, resolved itself into a Committee of the Whole on the state of the Union.

Mr. HARDIN moved to take up the bill from the Senate for erecting toll-gates on the Cumberland road; and the Committee decided to take up that bill—ayes 112.

The bill being before the House, Messrs. FARRELLY, BARBOUR, RHEA, and WRIGHT delivered their sentiments against the bill, and Messrs. HARDIN, COOK, and TRIMBLE, in favor of the bill.

After Mr. RHEA had concluded, the question, on the motion of Mr. FARRELLY, for striking out the enacting clause of the bill, was taken, and negatived—ayes 37, noes 75.

Mr. TRIMBLE moved a substitute for the details contained in the nine first sections of this bill, which substitute was laid on the table by him some days ago.

Mr. FARRELLY proposed to amend the amendment, by inserting a provision making it necessary to procure the assent of Pennsylvania before putting up the gates on the road.

The motion was modified, at the suggestion of Mr. BASSETT, so as to include Virginia, and after a few remarks in favor of the motion, by the mover, and against it by Messrs. ROSS, and JONES, of Tennessee, the question was taken thereon, and negatived, by a large majority.

The adoption of the substitute was opposed by Messrs. H. NELSON, and BASSETT, and supported by Mr. TRIMBLE, when the question was taken thereon, and the substitute was adopted.

[The effect of this amendment is not in any manner to change the principle of the bill, but to make its details such that it may be carried into effect without the necessity of further legislation.]

Mr. HEMPHILL moved a further section, to appropriate the sum of \$9,000 to repair the said road. The question was taken thereon without debate, and decided in the affirmative—ayes 64, noes 59.

Mr. PLUMER, of New Hampshire, proposed a further amendment, the purport of which was to confine all the expenditures, under the act, to the moneys collected by tolls on said road. The question was taken thereon, and carried without a division.

The Committee then rose, and reported the bill as amended in Committee.

In the House—Mr. TAYLOR moved to amend the bill, by substituting, in lieu of the amendments reported, a provision authorizing the President of the United States to cede to the States of Maryland, Virginia, and Pennsylvania, respectively, all the right and title of the United States in the road

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which has been made from Cumberland to Wheeling. The motion was supported briefly by the mover, Messrs. RHEA, and ALEXANDER SMYTH, and opposed by Messrs. ROSS, JONES, of Tennessee, and HENDRICKS.

Mr. TAYLOR called for the yeas and nays, which were ordered; but, before the question was taken, Mr. T. modified his motion so as to have the cession made upon such terms and conditions as shall insure the preservation of the road, and that no further tolls shall be collected therefrom by the States respectively, than may be necessary to keep the same in repair.

After a few observations by Mr. SMITH, of Maryland, Mr. BASSETT, and Mr. FARRELLY, the question was taken on Mr. TAYLOR's amendment, by yeas and nays, and decided in the negative—yeas 50, nays 103, as follows:

YEAS—Messrs. Archer, Baldwin, Bassett, Blair, Borland, Brown, Burton, Butler, Cambreleng, Cannon, Conkling, Conner, Crafts, Cuthbert, Edwards of North Carolina, Farrelly, Floyd, Garnett, Gist, Harvey, Hubbard, Keyes, Lathrop, Lincoln, McCoy, Mattocks, Moore, of Virginia, Nelson of Massachusetts, Nelson of Virginia, Overstreet, Poinsett, Reid of Georgia, Rhea, Rich, Ruggles, Russ, Arthur Smith, Alexander Smyth, Stevenson, Taylor, Thompson, Tucker of South Carolina, Tucker of Virginia, Van Wyck, White, Williams of North Carolina, Williams of Virginia, Wilson, Wood, and Woodcock.

NAYS—Messrs. Alexander, Ball, Barber of Connecticut, Barber of Ohio, Baylies, Bayly, Blackledge, Breckenridge, Buchanan, Burrows, Campbell of New York, Campbell of Ohio, Chambers, Cocke, Colden, Condict, Cook, Cushman, Dane, Darlington, Denison, Dickinson, Durfee, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Findlay, Fuller, Gebhard, Gilmer, Gorham, Gross, Hardin, Hemphill, Hendricks, Hill, Holcombe, Hooks, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Kirkland, Leftwich, Litchfield, Little, Long, McCarty, McLane, McNeill, McSherry, Mallary, Matlack, Matson, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Neale, Nelson of Maryland, Newton, Patterson of Pennsylvania, Phillips, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reed of Massachusetts, Reed of Maryland, Rochester, Rogers, Ross, Russell, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, W. Smith, J. S. Smith, Sterling of New York, Stewart, Stoddard, Swan, Tatnall, Tod, Tomlinson, Tracy, Trimble, Upham, Vance, Van Rensselaer, Walker, Walworth, Warfield, Williamson, Woodson, Worman and Wright.

The question then recurred upon a concurrence in the amendment proposed by the Committee of the Whole.

Mr. STEWART then moved to amend the amendment, by adding to the first section thereof the following proviso:

"Provided, That if any county through which the road passes shall make the same a county road, and keep the same in good and perfect repair at the expense of such county, that then, and in such case, no tolls shall be collected on such part of said road so kept in repair, during the time it shall be so kept in repair; but on the failure of such county to keep the same in repair, as aforesaid, it shall then be in the

power of the President of the United States to cause gates to be erected, and tolls to be collected as on other parts of said road."

The motion was supported by Mr. STEWART, and opposed by Mr. HARDIN, and lost without a division.

Mr. FARRELLY renewed his motion, made in Committee of the Whole, to amend the bill, so as to require the assent of the States of Virginia and Pennsylvania, to the erection of gates, &c.; but the same was negatived, without debate, by a large majority.

The amendments made by the Committee of the Whole were concurred in, with the exception of that which appropriates \$9,000 (a balance remaining of the appropriation for making the road) for the repair of the road; on which question Mr. BASSETT called for the yeas and nays, which were thereupon ordered.

After a few remarks thereon by Mr. BALDWIN against, and Mr. TAYLOR in favor of this amendment, the question was taken upon agreeing to it, and decided in the affirmative—yeas 84, nays 71, as follows:

YEAS—Messrs. Barber of Connecticut, Bateman, Baylies, Bayly, Breckenridge, Buchanan, Burrows, Campbell of Ohio, Cassidy, Chambers, Cocke, Conkling, Cook, Cushman, Cuthbert, Dane, Darlington, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Findlay, Fuller, Hardin, Harvey, Hemphill, Hendricks, Hill, Hobart, Holcombe, Hubbard, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Kirkland, Leftwich, Little, McCarty, Mallary, Matson, Mercer, Metcalfe, Milnor, Montgomery, Moore of Virginia, Neale, Nelson of Maryland, Newton, Patterson of Pennsylvania, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Maryland, Rich, Rochester, Ross, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, W. Smith, J. S. Smith, Stewart, Stoddard, Taylor, Tomlinson, Tracy, Trimble, Vance, Van Rensselaer, Walker, Walworth, Warfield, Whipple, Williams of Virginia, Woodson, and Wright.

NAYS—Messrs. Alexander, Archer, Baldwin, Ball, Bassett, Blackledge, Blair, Borland, Brown, Burton, Cambreleng, Campbell of N. York, Cannon, Colden, Condict, Conner, Crafts, Denison, Dickinson, Edwards of North Carolina, Farrelly, Floyd, Garnett, Gebhard, Gilmer, Gist, Gorham, Gross, Hawks, Keyes, Lathrop, Lincoln, Litchfield, Long, McCoy, McNeill, McSherry, Matlack, Mattocks, Mitchell of Pennsylvania, Moore of Pennsylvania, Morgan, Murray, Nelson of Massachusetts, Overstreet, Phillips, Pitcher, Reed of Massachusetts, Reid of Georgia, Rhea, Rogers, Ruggles, Russ, Arthur Smith, Alexander Smyth, Sterling of Connecticut, Stevenson, Swan, Tatnall, Thompson, Tod, Tucker of South Carolina, Tucker of Virginia, Van Wyck, White, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, and Worman.

The question was then taken, Shall the said bill be engrossed, and read a third time? and passed in the affirmative—yeas 83, nays 71, as follows:

YEAS—Messrs. Barber of Connecticut, Barber of Ohio, Bateman, Baylies, Blackledge, Breckenridge, Buchanan, Burrows, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Cocke, Cook, Cushman, Cuthbert, Dane, Darlington, Durfee, Dwight,

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Eddy, Edwards of North Carolina, Edwards of Pennsylvania, Findlay, Fuller, Hardin, Hemphill, Hendricks, Hill, Hobart, Holcombe, Jackson, F. Johnson, J. T. Johnson, Jones of Tennessee, Kent, Kirkland, Leftwich, Little, McCarty, McLane, Mallery, Matson, Mercer, Metcalfe, Milnor, Montgomery, Moore of Pennsylvania, Moore of Virginia, Murray, Neale, Nelson of Maryland, Newton, Patterson of Pennsylvania, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Maryland, Reid of Georgia, Rich, Rochester, Ross, Russ, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, W. Smith, J. S. Smith, Stewart, Stoddard, Tod, Tomlinson, Trimble, Upham, Vance, Van Rensselaer, Walker, Walworth, Warfield, Whipple, Williams of Virginia, Woodson, and Wright.

NAVS—Messrs. Alexander, Archer, Baldwin, Ball, Bassett, Blair, Borland, Brown, Burton, Butler, Cambreleng, Cannon, Colden, Condict, Conkling, Conner, Crafts, Denison, Edwards of N. Carolina, Eustis, Farrelly, Floyd, Garnett, Gebhard, Gist, Gorham, Gross, Harvey, Hawks, Hooks, Hubbard, Keyes, Lathrop, Lincoln, Litchfield, Long, McCoy, McNeill, McSherry, Matlack, Matlocks, Mitchell of Pennsylvania, Morgan, Nelson of Massachusetts, Nelson of Virginia, Overstreet, Phillips, Pitcher, Reed of Massachusetts, Rhea, Rogers, Ruggles, Arthur Smith, Alexander Smyth, Sterling of Connecticut, Stevenson, Swan, Tatnall, Taylor, Thompson, Tracy, Tucker of South Carolina, Tucker of Virginia, Van Wyck, White, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, and Worman.

The bill was ordered to be read a third time tomorrow.

MILITARY APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole, on the bill making further appropriations for the military service of the United States, for the year 1822.

The question recurred upon Mr. Ross's amendment to Mr. Cocke's proviso, limiting extra allowances to the Governors of Territories, for services as superintendents of Indian affairs, to prospective payments.

The question was taken thereon without debate, and negatively, as was the original proviso of Mr. Cocke, which was also decided in the negative, without a division.

The question of appropriating \$762 for the expense incurred in military courts martial in the State of Pennsylvania, being under consideration, Mr. Cocke moved to strike out the section.

The motion was supported by the mover, Mr. McCoy, and opposed by Messrs. Smith, of Maryland, Tod, and McSherry, when the question was taken, and negatively.

Mr. Cocke then moved to amend the section, by providing that the payment be made out of the moneys collected from military fines in Pennsylvania.

Mr. Cocke supported, and Messrs. Milnor and Buchanan opposed the amendment; which was put, and lost.

Other appropriations having been agreed to, Mr. McCoy moved to strike out the appropriation of about \$19,000, for expenses incurred by holding courts martial in the State of New York.

The motion was supported by the mover and Mr. Williams, of North Carolina, and opposed by Messrs. Taylor, Stevenson, Jones, of Tennessee, and Colden.

Mr. Edwards, of North Carolina, moved that the Committee rise and report, which was lost—yeas 40, nays 64.

The question was then taken on striking out the section, and lost without a division; and the appropriation, as recommended, was agreed to.

Sundry farther appropriations having been agreed to, Mr. Hill renewed the motion to rise, which was lost without a division; and, after making some further progress in the bill, Mr. Stevenson renewed the motion to rise and report; which was agreed to, and the House adjourned.

SATURDAY, April 27.

Mr. Williams, of North Carolina, from the Committee of Claims, to whom was referred a resolution to allow additional compensation to William Drakeford, a deputy marshal in South Carolina, for his services in taking the Fourth Census, made an unfavorable report thereon; which was committed to a Committee of the Whole.

Mr. Williams, from the same committee, to whom was referred so much of a resolution of this House, as directs an inquiry into the late decision of the district court for the eastern district of Pennsylvania, between the United States and a public agent, made a report thereon; which was ordered to lie on the table.

Mr. Graham gave notice that he should, on Tuesday next, move for the consideration of the bill reported by the Committee on the Suppression of the Slave Trade.

On motion of Mr. McSherry, the Committee of the Whole were discharged from the further consideration of the bill, explanatory of the act authorizing the settlement of the accounts of Richard O'Brien; and the same was, without debate, ordered to a third reading.

Mr. Plumer, of New Hampshire, from the Committee on the Judiciary, reported unfavorably on the petition of Thomas Eames; which report was read, and committed to a Committee of the Whole.

Mr. Williams, of North Carolina, from the Committee of Claims, to whom was referred a bill from the Senate for the relief of Daniel Carroll, of Duddington, and others, reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. Newton, from the Committee on Commerce, reported a bill to provide for the appointment of deputy collectors of the customs; which was twice read, and, after a few observations from Mr. N., ordered to be engrossed for a third reading.

Mr. Eustis, from the Committee on Military Affairs, to whom was referred a bill from the Senate, to repeal the 14th section of an act to reduce and fix the Military Peace Establishment, passed March 2, 1821, reported the same without amendment; and the bill was ordered to a third reading.

Mr. Russell, from the Committee on Foreign

Affairs, made an unfavorable report on the petition of Jonathan Libby, and others; which was read, and agreed to by the House.

RETRENCHMENT OF EXPENDITURES.

Mr. HARDIN, from the select committee to whom was referred a resolution of the House directing an inquiry to be made whether any part of the public expenditures can be retrenched, without detriment to the public service, and whether there be any offices or appointments in the Government of the United States which have become useless and unnecessary, and can be dispensed with, further reported :

The committee state that, very soon after the commencement of the present session, it was convened for the purpose of taking its duties into consideration; that it was not a little puzzled in coming to a decision upon the question of What are the duties of the committee? The rule of the House, to be sure, presents a very extended field for inquiry; many very important subjects, by classes, are embraced; but subsequent rules provide for the appointment of six standing committees, and prescribe to them duties, severally, which, when taken collectively, may perhaps occupy every ground upon which this committee could move. The committee, however, determined to institute an inquiry into the state of the laws by which the several Executive departments are organized, with the view of ascertaining whether any imperfections existed. To this end, a note was addressed to the several heads of the departments, including the General Post Office, requesting from each an exposition of any existing imperfections tending to the increase of expenditures, or to leave the officers in a less degree accountable than they ought to be. To this request, so respectfully made, no answers were received which are worthy of being reported. In the mean time, great willingness had been displayed by individual members to engage in the examination of many subjects which, perhaps, might fall within the scope of the powers of this, or some other standing committee. This activity on the part of the members, with the more exact information which they seemed to be in possession of, rendered it, in the view of the committee, entirely unnecessary for it to take any further steps. The committee were, therefore, for a considerable time, entirely inactive, believing nothing would be necessary to be reported by it for the consideration of the House; and it was the more inclined to this course, because it is believed that very few, if any, matters had been acted upon heretofore by the Committee on Public Expenditures; but some recent occurrences determined the committee to enter upon the examination of some matters which, it believes, are proper to be presented to the House.

The committee feel it to be, in some degree, its duty to present to the House for consideration the subject of individual claims against the Government. The practice has been to present those claims to Congress by petition; and a great consumption of time, and consequent expenditure of money, has resulted from the legislation, and the attempts to legislate, upon such matters: the rejection of a claim at one session is no bar to its presentation at another; so that it may, in truth, be affirmed that legislative inquiries touching such matters are interminable. The committee cannot but consider the consumption of time and money in legislating upon such matters, connected with the matters which it has stated, as a serious evil in our

policy, demanding the application of a proper remedy, if one may be devised. The greater part of the claims which would warrant legislative relief must be based upon laws previously existing, but rejected at the departments because of the informality of documentary evidence, or the loss of evidence, or the informal mode of performing the service; or upon some expenditure of money, loss of money, or performance of service, which would, under all circumstances, place the nation under an obligation to compensate, or refund, or relieve, under well-settled principles of equity. All the cases properly falling within either of the above, as two great classes, it seems to the committee might be referred to the judiciary department of the Government for examination and decision by a general law. Without intending to give offence to members of Congress now in service, or those which have been in service, or may hereafter be in service, but merely to speak of human nature as it is found to exist, the committee feel authorized to say that there is some cause to fear that some members may have, and that others may hereafter feel too great a solicitude to favor the applications of individuals, making a merit of doing injustice to the nation for the benefit of individuals; and that others may have, or hereafter may feel too strongly inclined to reject such applications, making a merit of economy founded upon injustice. In like manner, it feels authorized to say that there is some cause to fear that such applications have been, and may hereafter be decided upon, without that severe scrutiny which affairs of justice require. The judicial mode of examination and decision, then, in the view of the committee, presents, upon a comparison with the legislative, these advantages: 1st. A great saving of time, consequently a great saving of money. 2dly. A conclusive determination of matters which may be urged before the Legislature without end. 3dly. A decision by men not so directly subjected to motives for doing injustice. 4thly. A decision by men whose habits and prescribed modes of examining questions are more favorable to a right decision of mere questions of law or equity. 5thly. The withdrawal of such subjects from the consideration of Congress would enable the members to bestow more time upon the examination of those matters which cannot be considered and decided upon by any other department of the Government.

The committee have deemed it proper to call the attention of the House to the subject of forts, and other permanent, stationary, or fixed defences of the military kind. Upon these subjects the committee will urge nothing with any high degree of confidence, not professing to be learned or skilful in relation to such matters; but some considerations will, with diffidence, be suggested. The mode of erecting forts, &c., by contracts, is liable to the objection that the undertakers are ever interested in performing the work in a manner less substantial and durable than their contracts require; and this may be effected in some degree, notwithstanding a very strict scrutiny; and it is liable to the further objection of being extremely expensive. The committee are strongly inclined to believe that this mode of performing such service ought to be abolished, and that the performance of it ought to be committed to the military, with the aid of such mechanics as cannot be found among the soldiery, under the superintendence of proper officers of corps of engineers. This would afford employment to the soldiers, and guard them against the evils of idleness; and even if it should be thought that justice required that

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some compensation should be made them for such labor, in addition to their monthly pay, still the change of mode might be productive of a considerable pecuniary saving. In this mode, no person may be supposed interested in using improper materials, or in performing labor in a slovenly or unskilful manner, because it may be conducted in such a manner as to give no person any advantage from such improper use, or from such improper workmanship. Again: the officers of the Engineer department, it is fair to suppose, ought to superintend the construction of such works; and if the change should have the effect of requiring their attention more strictly, it would thereby be productive of beneficial results. The committee believe that examples of high authority may be adduced in support of the change of policy proposed. It was the policy of Rome, as the committee believe, throughout her long course of successful warfare with the various nations of the earth.

The committee state further, that, not long since, certain publications were inserted in some of the gazettes of the country, charging many acts of favoritism, fraud, and defalcation in the management of the fiscal concerns of the nation, and of the misapplication and unauthorized application of public money and of public property. The committee would never believe vague, declamatory charges of corruption, or of the wasting of public money, worthy of notice, whether made in newspapers or elsewhere; but when they are made in a precise, definite, and tangible form, they are calculated to disquiet the minds of the people, and demand from their Representatives a proper scrutiny. Such, in the view of the committee, is the character of the publications above referred to. The committee, then, believing they deserved examination, determined to investigate the whole of the said charges thoroughly, and present to the House a full view of the evidence to be procured from the several branches of the Executive department of the Government, hoping thereby to aid in exculpating innocence, in presenting the guilty, if any, in their proper colors, and in ascertaining the defects in the system of laws which relate to the management of the finances of the country. The inquiry has been prosecuted with great diligence, and much evidence has been obtained; but the committee now believe it will not be practicable to present to the House, during the present session, a full and digested view of the various charges to which reference has been made. The committee will, however, in general terms, state that many of the charges are not well founded; that some of the accounts mentioned in the gazettes have been recently closed; and that some of the balances stated as standing against individuals will be found, upon a final statement, to be much below the sums now appearing. On the other hand, the committee feel compelled to say that there has been, in some of the cases, a degree of negligence on the part of the officers engaged in the settlement and collection of public moneys, for which no good reason can be assigned, and that considerable losses will result therefrom.

The committee have thought that the several subjects above mentioned were worthy of being brought distinctly to the consideration of the House; and, with this view, the following resolutions are submitted:

1. *Resolved*, That the Committee on the Judiciary do inquire into the expediency of prescribing by law a mode by which all persons having claims against

the United States, on account of money or property, may have the same brought before, examined, and decided upon, in the judicial way, embracing therein all cases where, upon a like state of facts between individual and individual, an action at law, or bill in equity, would be sustained.

2. *Resolved*, That the Committee on Military Affairs do inquire into the expediency of repealing all laws authorizing the building of forts, and erecting certain other military defences, by contracts made with persons not of the Army; and of providing, in lieu thereof, the most advantageous mode of having such services performed by the labor of the regular soldiers, aided by proper mechanics, under the superintendence of the proper officers of the Army.

3. *Resolved*, That the Committee of Ways and Means do inquire into the expediency of changing the existing laws in relation to the time of reporting balances to Congress, as being due from individuals to the United States, so as to require such report within one year after the account ought, by law, to be closed; and that the said committee do also inquire into the expediency of prescribing by law a more effectual mode of taking sureties from the officers concerned in the collection and disbursement of public moneys, embracing a mode of renewing the obligations of such officers periodically; and that the said committee do also inquire into the expediency of providing by law for the forfeiture of offices in relation to the collection of the revenue, and the disbursement thereof, on account of certain specified omissions and malpractices.

Mr. HARDIN, from the Committee on Retrenchment, reported the following bill:

Be it enacted, &c., That it shall be lawful for the Secretary of the Treasury, with the approbation of the President of the United States, to make such disposition of the public money, due by the banks which have suspended payment, and usually denominated special deposits, as may be deemed most advantageous to the public interest: *Provided*, That no disposition shall be made, which shall not be calculated to insure the payment into the Treasury of the principal sums at this time due by the Bank of Kentucky and its branches, the Bank of Vincennes, the Bank of Missouri, the Bank of Edwardsville, the German Bank of Wooster, the Bank of Muskingum, the Miami Exporting Company, the Bank of Cincinnati, the Farmers, Mechanics, and Manufacturers' Bank of Chillicothe, the Farmers' Bank of Canton, the Lebanon Miami Banking Company, the Union Bank of Pennsylvania, the Bedford Bank of Pennsylvania, the Centre Bank of Pennsylvania, the Huntingdon Bank of Pennsylvania, and the Elkton Bank of Maryland.

The bill having been twice read,

Mr. HARDIN said that, on ascertaining the amount of unavailable funds, inquiry had been made whether the Secretary of the Treasury felt himself at liberty to make these funds available on the best terms on which they could be disposed of. That officer was apprehensive that he had no such power. The committee then requested him to prepare a bill which should be sufficient to answer the purpose; and the bill now reported by the committee had been prepared accordingly. That bill, Mr. H. said, did not embrace all the unavailable funds in the Treasury. There were deposits in several banks, the Brandywine Bank,

the Huntsville Bank, &c., which were not embraced in this bill. The reason why they were not embraced in it was, that the Secretary of the Treasury informed the House that he believed, in the ordinary course of things, the money due from them could be realized without any special provision on the subject. As he supposed the bill would not be objected to, he moved that it be engrossed, and read a third time.

Mr. RANKIN said that the subject of this bill had been before a committee, of which he was a member, who, having investigated it, thought it would be inexpedient at this time to act upon it. It was a matter well known, that some of the banks were getting much better than they were, and that it would be disadvantageous to the United States to dispose of their paper, &c., at this time. Many of the banks whose paper was held by the Treasury, were known to be broken beyond the possibility of recovery. He therefore thought it was better not to make any disposition whatever of this paper. He was not, however, tenacious of his opinion; but he hoped the gentleman would not press the bill, but let it lie on the table for the present; and Mr. R. made a motion for that purpose, which he subsequently withdrew.

Mr. Cook expressed his surprise at the committee's reporting this bill. The subject, he said, did not come within the powers of that committee. It had no right to make such a report. The objects for which it was appointed were specific—to inquire what offices in the Government were unnecessary, and what expenses could be retrenched. No power beyond this was given to them. Why, then, did they report this bill? The subject of this report had been specially referred to the Committee on the Public Lands; and the gentleman's committee must have great anxiety to report bills to take a subject from the committee that is specially authorized to act upon it. Mr. C. said he was not only surprised at the report on that account, but he was surprised that the bill should have been reported at all for the reason assigned, that the Secretary of the Treasury had requested it, because he had not already the necessary power. For, Mr. C. said, he had already exercised the power. He had papers in his hand, both printed and manuscript, showing that he had received from the Bank of Vincennes \$40,000 in bonds of individuals assigned to the United States in discharge of moneys due from it. When he expressed his surprise at this report, it was with the qualification that the Secretary of the Treasury had, in a report to the House, expressed the same opinion as that which he had given to the committee. The question embraced by this bill, he considered very important, as involving not only a large amount of money, but also the character of the Government. It ought, therefore, to be deliberately considered, and for that purpose he moved that the bill be referred to a Committee of the Whole.

Mr. HARDIN said, he would correct the gentleman in one particular. He did not state that the Secretary of the Treasury had requested the bill

to be reported, but that the committee had requested the Secretary of the Treasury to prepare it. There was, Mr. H. said, something like seven or eight thousand dollars of this depreciated money or unavailable funds. Some of it was depreciated 70 per cent. In the Edwardsville Bank there was about \$40,000, which, according to information derived from the gentleman from Illinois himself, was depreciated 34 per cent. It was indispensable, he thought, that the House should act upon the subject; and he wished that it might be acted upon before the paper was depreciated so low that nothing at all could be got for it. Mr. H. then moved to lay the bill on the table, with the intimation that, on Monday or Tuesday next, he would move to call it up. Carried.

PRESIDENTIAL DISTRICTS PROPOSED.

Mr. MONTGOMERY submitted the following joint resolution for consideration:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be submitted to the Legislatures of the several States, as amendments to the National Constitution, which, if ratified by three-fourths of the said Legislatures, shall immediately thereafter be valid, to all intents and purposes, as part of the said Constitution.

1. The United States shall be divided into four sections, to be styled Presidential Sections, in the following manner, viz: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, and New York, shall constitute one; New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, shall constitute another; North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Tennessee, shall constitute another; and Kentucky, Ohio, Indiana, Illinois, and Missouri, shall constitute another.

2. That, immediately after the next election of a President of the United States, the said sections shall be designated by numbers in the following manner, viz: The residence of the person recently elected as President, shall be determined by the joint vote of the Senate and House of Representatives of the United States, and the section within which he resides as a citizen, shall be styled the First Presidential section; and the number of each of the other sections shall be determined by a lottery drawn by the President of the Senate and Speaker of the House of Representatives, in the presence of the members of the two Houses, in the Hall of Representatives; and thereafter each section shall be designated by its number so drawn.

3. That forever, after the sections are so designated, a President of the United States shall be elected from the sections, respectively, in rotation, the first being a citizen of the second section; the second election to be of a citizen of the third, and so on as to the highest number; and then of the first, and so on, as before mentioned, in regular rotation.

4. That any State hereafter admitted into the Union, shall be considered as a part of that section on which it binds by the greatest extent of its boundary.

5. That, whenever it is ascertained by the census of the United States that any section contains double the represented numbers of the section containing the lowest represented numbers, such section shall be divided by Congress, and the numbers of each determined by lottery, as before directed, the one section

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taking the former number, and the other a higher number.

This resolution having been read—

Mr. M. said he did not expect to call up this proposition for consideration until the next session of Congress. He submitted it now to bring it to the view of the House and of the nation; and, however laughable it might appear to some gentlemen, he considered it a very serious matter. He did not say how he should himself vote upon it; but he considered it an affair of great moment, well worthy of being considered, as well by the members of this House as by the people generally—and, unless an entire change should be made in his views of the subject, he should call it up at the next session.

The resolution was ordered to lie on the table accordingly.

COMPENSATION BILL.

Mr. HARDIN called for the consideration of the bill reducing the compensation of Senators and Representatives in Congress, &c.

Mr. WALWORTH called for the yeas and nays on the question; which were taken accordingly, and resulted as follows: Yeas 123, nays 31.

So the House agreed to consider the same; and the first section of the bill being under consideration,

Mr. BALDWIN moved so to amend the bill as to reduce the daily compensation of the members of Congress from six to four dollars.

On this question the yeas and nays were ordered.

Mr. BALDWIN said, he did not make this motion to destroy the bill. He never had acted, and never would act, in that way. But he made the motion from a strong conviction of the propriety of the amendment. The House had decided to reduce the mileage one half. From the beginning of the Government it had been thought that twenty miles of travelling was equal to one day's attendance, and ought to be equally compensated. He himself knew, from experience, that more money could be made by members from their daily pay than from the mileage. Having reduced the one, he would reduce the other; not that he thought six dollars per day too high a compensation. On the contrary, he thought it too low. But, in the decisions of the House upon the subject, there ought to be something like consistency and propriety.

Mr. WRIGHT justified the change which had been made in the allowance for mileage, as necessary to equalize, in some degree, the compensation of those who live at a distance and those who reside nearer to the Seat of Government. He regretted that the subject of their own compensation had been in any way brought into discussion, when the people do not require it. But what reason was there, that, on the plea of mileage, the seat of one member should be so much more profitable than another? He hoped the House would not agree to this proposition, either on its own merits, or on the demerits of the amendment which had already been made respecting mileage.

Mr. JONES, of Tennessee, said he should not have spoken on this subject, were it not that the vote he should give on this motion might appear to be inconsistent with his general course in relation to this bill. With his friend from Maryland, he was very sorry that this question had been again brought before the nation. For one, he would say that, however low the finances might be, if the people did not require the reduction of the pay of the members, he was sure the good of the country did not require it. He should vote, however, for the amendment now before the House for two reasons: First, because of the reduction which had taken place in the mileage. As it now stood, unless the roads in Tennessee were much better than usual, he should make one dollar and a half per day whilst travelling. It was a fact very well known, too, that in proportion to the distance which a man lives from the city, is the sacrifice he has to make in coming here. We, said he, who come from a distance of seven or eight hundred miles, have to surrender every thing at home. The mileage, therefore, ought not to have been reduced as it had been, unless the pay was to be reduced in the same proportion. Mr. J. said he should vote for Mr. BALDWIN's amendment for another reason. If, indeed, said he, the principle is to be established, that we shall receive for our compensation no more than is just enough to support us here, and bring and carry us back, let us come down to the sum. I can live here upon four dollars per day, and I, perhaps, live as extravagantly as any other member. If we are to receive more than four dollars per day, let us go to something that is decent. He was opposed to the reduction at all, and would state in his place what he would desire his constituents to hear: that if the finances of the country would permit it, he would vote at this moment, and with as much pleasure as he ever gave a vote in this House, to raise the pay of the members higher than it now is. It was the wish of his heart to see this Congress continue to be independent—that it should never be filled with a moneyed aristocracy, by stockholders, &c. Suppose the fact of the occurrence of another war. And suppose the fact, also, that we should not get out of it as soon as we got out of the last, but it should continue for as long a time as the war of the Revolution did. What, then, would be the amount of the public debt, or stock? Who would hold it? Those who fought your battles? No; a very different class of people! Who, then, would come to Congress? This House would be half filled with stockholders. We shall hear as much noise about republicanism and patriotism as now; but it will be an empty name—a shadow only of the reality. If the finances of this country would permit him, he repeated, he would vote to raise the pay. Suppose that the pay of Congress should be reduced to precisely what you now pay the hireling, who does daily labor for you. What would be the consequence? What is even now the fact? No man, unless he be a man of fortune, can maintain a seat in this House. I am very glad, said he, that the gentleman from Pennsylvania has

made this motion. I maintain that I, extravagant as my notions are, can live upon four dollars a day, and it is only just to those members who have to travel far to get here, to equalize the pay somewhat to the allowance for travelling. With that allowance, Mr. J. said, he should be able to get home—though he might have for the purpose to draw on other resources than those of the public, &c.

Mr. PATTERSON, of New York, was in favor of the amendment, but not for the reasons which had been assigned by the mover. For, Mr. P. said, he was averse to legislating on his own pay. He had some doubts whether he had any right to vote upon the subject; because, by a rule of the House, no member has a right to vote upon any question in which he is personally interested. He was averse to the principles of this bill from beginning to end. He had no idea of coming here to value himself. It was a matter heretofore settled for him by others, and he was willing it should remain so. If it was to be disturbed at all, he was willing to reduce the pay to the lowest possible amount for which a member can pay his expenses here. He was willing to come here for nothing; for it was an honorable office to represent thirty-five thousand free men. But, if he was to receive pay, he expected such as would be an honorable and respectable compensation. If his constituents were dissatisfied with his receiving such a compensation, they were not worthy of an independent representative on this floor. But he believed the people of this country were not of that grade of character, that they were either unwilling or afraid to pay their representatives for their services. He was in favor of the amendment because, if the compensation was to be reduced, he would go at once to the point of bare competency for subsistence.

Mr. FLOYD was opposed to the amendment. He did not think that, because there was an impropriety in one part of the bill, another incorrect feature ought to be given to it. He did not think, to be sure, that those gentlemen who travel here with so much ease by means of steamboats and stages, were very good judges of what ought to be allowed to those who journey laboriously over the rugged roads of the interior. He was particularly surprised that the reduction of the mileage should have had the countenance of the gentleman from Maryland, who so eloquently declaimed on the munificence of the allowance to the judges of his State, &c. As to the independence of this House, which had been spoken of, Mr. F. said it was his belief that this House never would be more independent than it was at present; and, if it retained the same degree of independence, it would get along pretty well. Eight dollars per day had not secured to this House more independence than six dollars had formerly done. He would not say that the Executive had influence here; every gentleman doubtless felt himself independent: but that the Executive has influence, Mr. F. said, was certain. If you go into public places, you may see it written on the foreheads of men—I want—I will accept—give to me. If we

want really to get back to first principles, said Mr. F., to an honest administration of the concerns of the country, let us get as near to it as we can without overreaching our object. If, however, the amendment now under consideration should be adopted, it would be no reason why he should vote against the bill. If he could not get the whole system, as reported by the committee, he would yet not be deterred from voting for the bill by these amendments.

Mr. HARDIN rose to explain the course and objects of the Committee on Retrenchment. When that committee was first organized, which was in February, it was not expected, nor did the committee believe that they could get the necessary measures of retrenchment before Congress in time to act upon them at the present session. After examining the finances of the nation, in the most impartial manner, the committee were of opinion that, to enable the Government to apply to the public debt a sinking fund of eight millions of dollars, it was necessary to increase the revenue from customs, and to retrench the expenditure of the Government. The object of the committee was not to cut down any of the necessary expenses of the Government, nor to carry the retrenchment further than a reduction of salaries, &c., to what they were seven, eight, or ten years ago—to what they were before they were increased in consequence of the depreciation of money. After the committee had reported, they felt themselves so situated that, from personal respect to themselves, they were obliged to bring this subject now before the House, although it had been no part of their original plan. Those members, Mr. H. said, who were in favor of returning to old principles, ought not to go below them. If they did, they would disorganize the whole system of retrenchment. If, however, the compensation were voted down to one dollar per day, he pledged his honor and reputation that he would vote for it. But, as far as the House might be disposed to return to old principles, he trusted it would resist every attempt to go below the report of the committee. In relation to the question of mileage, he had voted against the reduction of it, as he should do against the present motion, because both amendments have a tendency to bring down the retrenchment below the reason of the measure. Mr. H. said he knew that what would be saved by the passage of this bill was but a drop in the ocean of expenditure, as it would amount only to some eighty or ninety thousand dollars annually. But it was necessary that this House should set the example by beginning with its own compensation—not that eight dollars per day was too much, for he had told his constituents over and over again that he did not think even the \$1,500 per annum was too high a compensation for members of Congress. This bill had been reported, not that the committee believed the compensation of the members was now too high, or that it would be an item of saving of any great importance to the Treasury, but that it was evidently necessary to begin with themselves this holy war upon compensations. But, because he was in favor of the bill, he was opposed to this

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amendment. If you lose one arm, said he, will you therefore cut off the other? Mr. H. said he intended himself, if nobody else did, to move to recommit the bill, with instructions to the committee to restore the mileage to what it was reported at, viz: six dollars for every twenty miles travel. If this bill were presented to the House as a measure *per se*, without any other, he would vote against it himself; for he did verily believe, and always had believed, that the members of Congress were the worst paid officers in this Government for the labor, sacrifices, and privations, they had to undergo.

Mr. MONTGOMERY could not perceive what great good effect the system of retrenchment would have. The policy of the country, he would admit, should be bounded by its means. But has the Government found it necessary to abandon any part of its essential establishments for want of those means? By looking at the state of the duties upon imports and tonnage in the years 1815, 1816, and 1817, he observed that he believed that it might be satisfactorily proved that the people paid little if any portion of the revenue upon those subjects; that the importations in those years have been exorbitant; that the importers had secured and paid the revenue to the Government; had sold the merchandise at a loss, even beyond the amount of the revenue; and that the people had greatly injured themselves by buying good bargains. And now we are called upon to do injustice to the officers of the Government, in order to favor the revenue. Mr. M. did not perceive that that course was necessary. To raise two or three millions by taxation was not very oppressive, and that, with the imposts and tonnage, and sales of the public lands, would be sufficient, in his opinion, to reduce the public debt, without doing injustice to any body. But gentlemen seem determined to make their system of retrenchment square with the revenue. Mr. M. said, his policy would be to bring up the revenue to the necessary expenses of the Government. He did not know that any of the officers of the Government received too much. It was very evident that they do not grow rich on their salaries. The question on the bill before the House, he said, was not of that dignified character that he could wish to see. It looked too much like the play of little boys, who strike each others' knuckles to see which can stand it the longest. But, in regard to this point of honor, he would not be behindhand. He would vote for the four dollars. If the mere honor of being members, and compensation equal to the ordinary expenses were alone to be considered, four dollars might be enough; but such a policy would commit the legislation of the country to the nabobs of the land—men who would be pleased to come here to show their carriages, with their riders before and riders behind, &c.; and a great portion of the most skilful business men of the country would not come, because they must do it at a great sacrifice. Others might be willing to come, because they could not do better at home. If, indeed, men were worth any thing at home, it was very evident that they would not come here

for less than eight dollars. There might be some deputy sheriffs, constables, &c. who could work even for one dollar per day at home, and probably they would be willing to come here for a reduced compensation. But as it was part of a system, and a point of honor to begin with this House, he should vote for the reduction proposed.

Mr. COLDEN did not rise to enter into a discussion of the subject, but only to explain his reasons for the vote he should give. He would vote for the four dollars. It seemed to be admitted that no man ought to lose money by coming to Congress; but it was very certain that no man could bring with him any part of his family, and live decently, for a less compensation than eight dollars. If a member is a bachelor, and has nobody to support but himself, he can doubtless live on less than eight dollars; but a man who has a family, and contemplates bringing such part of it as may be necessary to his comfort, will be able to save nothing from the present allowance. But, as four dollars was enough for the support of bachelors, or those who live like bachelors, and six dollars was not enough for the expenses of those who desired to bring their families, he should give his vote in favor of that sum, although he should vote against the original bill.

Mr. CAMPBELL, of Ohio, thought it was correct legislation to adapt our expenses to our circumstances, as much in public as in private life; and, if a man's situation was such as required a reduction in his style of living, it became an imperious duty upon him to reduce it. Instead of four horses, he should drive but two, &c. Mr. C. was disposed to reduce rather than to tax. The gentleman from Kentucky (Mr. MONTGOMERY) had taken the strong ground that it may be expedient to resort to taxation to defray the expenses of Government in a time of peace. To this doctrine he (Mr. C.) could not assent. He would make every effort to retrench before he would appeal to this last resort. And, until that has been done, the people would not consent to be taxed. They would not be able nor willing to pay direct or internal taxes during peace, especially as they know the immense proportion of it which is absorbed in the expense of collecting it. Mr. C. had voted heretofore against raising salaries, because he knew how difficult it was afterwards to reduce them, and he contended that a person could live even in this extravagant city on the sum proposed; and perhaps they would spend all they could get even if their compensation was raised; so it was no conclusive argument that salaries were not too high, as the gentleman (Mr. MONTGOMERY) seemed to suppose, even that those who enjoyed them did not become rich. Mr. C. was not disposed to reduce the salaries so low as to expel the incumbents from office. But he was in favor of a moderate reduction. If 20 per cent. is taken from a clerk, he may say he cannot live on his salary. If this be true, what is the consequence? He will resign; and to-morrow there are one hundred applicants for the reduced office, and who in a short time will perform its duties equally well. Last Winter, when a bill of a similar character with

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the present was before the House, he (Mr. C.) had advocated its passage; and he was then charged by the gentleman (Mr. HARDIN) who originated this bill, with doing so for the purpose of accomplishing a certain object, not explicitly named, but fully understood. Mr. C. would not now retort upon that gentleman by imputing to him any such object now as he had imputed to others then. He would presume that he was convinced of his error, and that this bill was the fruit of that conviction. Mr. C. believed that retrenchment was indispensable to the payment of the national debt and to the safety of the Government. He alluded to the events that preceded the French revolution, which was to be ascribed, in a great measure, to the deep debt in which that Government was involved, and from which not even the abilities of a Necker could extricate it. That Minister had proposed to borrow, but so low was the credit of the Government that nobody would lend. To avoid similar results, we must prevent the cause. We must retrench as much as we can in every department. Mr. C. was in favor of reducing to six dollars, but against four dollars. He would come down to the good old standard, which experience had sanctioned, and with which the people were satisfied.

Mr. WALKER observed that they were about to touch a tender string, in which every gentleman had an individual interest, very inconsiderable in its effect as to the rights of members, but very important as it respects a system of retrenchment, in which we all seem to be ardently desirous, and which has been in the mouths, and, he hoped, in the hearts of gentlemen; for out of the abundance of the heart the mouth will speak. Sir, we are about to change the system of our expenditures, and bring them within the circle of our revenue. I have been uniformly, and am now sentimentally, disposed to effect a system of retrenchment so far as is consistent with the good and safety of the nation and the rights of individuals. Sir, we are about to pull down one house and build another, and, as no edifice can flourish only in proportion to the strength of its foundation, we must lay the first stone in the building in cutting off our own wages, and then we can with a good face reduce others. He thought that we ought not to hold a premium in the wages of members, to buy the talents of the nation; nor make the compensation so low as to prevent men of talents from serving as members of Congress. They ought to receive so much as to indemnify them for their attendance and labors as members of Congress. Let their condition be no worse abroad than at home; for we all live, and we cannot live like the lilies of the field, which neither toil nor spin. We ought to have such wages as will enable us to live like gentlemen, when on our duty in Congress, and leave a small sum to carry home. This, Mr. W. believed, six dollars per day would afford. He therefore should vote for that sum.

Mr. SAWYER moved to amend the instructions for the recommitment of the bill, by adding thereto a proviso, the effect of which, if adopted, would be, that this bill should not take effect if it shall

be shown by the annual report of the Secretary of the Treasury, at the next session, that there is one million of dollars beyond the amount necessary to meet all the demands of the Treasury for the year. If this balance should be in the Treasury, Mr. S. said it would not be necessary to take the step proposed by this bill, since all the gentlemen who had spoken admitted that the pay was not too high. If it should be otherwise, however, then he would go as far as any gentleman in support of a system of reduction of expenses.

Mr. TAYLOR moved for the previous question, on the ground that so short a portion of the present session remained, and that no new light could be shed on the subject by prolonged debate.

The call for the previous question failed, not being supported by a majority of the members.

Mr. WILLIAMSON did not rise to discuss the question generally, but to reply to what had been said on the subject of taxes. The object of retrenchment he understood to have a reference to the situation of our finances. It was said, by the gentleman from Ohio, that the people would complain if they were to pay taxes. Who, he asked, do now pay the taxes? How much is paid by Ohio and Kentucky? Let the books of the Treasury furnish the answer. And yet they complain of taxes. Look to the State of Maine—and what does she put annually into your Treasury? More than three hundred thousand dollars—and yet she does not send her representatives here charged with the errand of representing that they cannot pay their taxes. Is there any soundness in that argument? Is there any foundation for it? If they do not pay the taxes, why should they complain? When our finances were in a worse condition than now—when they were borne down with the events of the war—with two hundred miles of exposed seaboard—and part of their territory actually under the yoke of the enemy—the people of Maine did not complain of taxes, although they did complain of not being protected. It was not the States beyond the mountains, he said, that bore the burdens of the Government. He did not wish that they should. Nor, on the other hand, did he feel disposed to yield to the great and mighty system that is coming upon us, with this bill as the butt end of it. Our constituents, it seems, are alarmed with the evils that are hastening, and threaten, unless we reduce our pay, that the places that now know us shall know us no more forever. Mr. W. entertained no apprehensions of that sort. He represented a noble and liberal people. They lived remote, but they were not dissatisfied with the present compensation of the members. He would injure them, were he not to bear witness to their liberality. But it was said that we must go back to old times. A sacrifice must be made, and the amount of the language is, we must first apply circumcision to ourselves, and then say to others, we will take you in hand and circumcise you. After placing ourselves on the altar, we are next to proceed with the clerks. And was this just? They went into office under an implied pledge of the faith of the Government, and he was not disposed to deviate from it. Mr. W. was apprehen-

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sive that there was a deeper principle in this system than had been hitherto brought to light. Peradventure there may be some man who wishes for the loaves and fishes, which he cannot obtain without displacing those who now enjoy them. Mr. W. would not enlarge on the subject—but he should feel that he was doing himself injustice were he to vote for the four dollars. He was frank to avow that his property was small—nor did he regard it, so long as he was supported by an approving conscience. But he would not consent to a measure that would operate hardly and unjustly, not only upon himself but upon others—a measure that may send away the widow with a tear and the orphan with a sigh.

Mr. SANDERS then moved to recommit the bill to the committee who reported it, with instructions “so to amend the bill so as to make the mileage six dollars for every twenty miles, also to make the other section of the bill correspond with the amendments made in the first section.”

And the question being stated thereon—

Mr. WALWORTH opposed it on the ground that the present law was unjust, because it was giving to the distant members an unfair proportion beyond the others. Mr. W. had made a calculation on the subject, and he found that he should receive \$33 per day while travelling, and should, on the whole, clear \$400 in the mileage of coming to, and returning from, Washington. His colleague (Mr. TRACY) would also receive \$27 50 per day, and the chairman of the Retrenchment Committee (Mr. HARDIN) \$456—or \$10 50 per day over his expenses. Mr. W. thought it was neither just nor right to impose on those living in the vicinity this disproportionate remuneration for equal services. Under the old system, some members will make \$20 clear profit per day while travelling, and those who live near, during their attendance in the House, can only make three dollars. To adhere to the thirty miles as an equivalent to a day's attendance would be less unjust, although even that would operate in favor of those who reside at a distance. Mr. W. was therefore opposed to this motion, although he should vote against the reduction of the wages to four dollars.

Mr. BURTON expressed briefly his views in favor of the motion. He considered the question of mileage as involving a consideration of deep national interest. If any thing was to be saved by members from their compensation, it was from the mileage, and, if that was reduced, it would naturally weaken the inducements to Representatives from the Western and other more distant States to come to Washington, and ultimately assist the tendency to a disposition to set up for themselves. Mr. B. wished to strengthen, not to relax, the bands of the Union—and although he would not object to reducing the per diem allowance to four dollars, yet he would be very willing to increase the mileage to ten or twelve dollars for every twenty miles, on the principle he had suggested.

Mr. SAWYER's motion was negatived by a large majority.

Mr. HILL, of Maine, moved further to amend

the instructions, so as to add a proviso that no member should receive pay for any day during which he has been absent from the service of the House, unless detained from it by sickness. He was glad to see the gentleman from New York so disinterested, in arguing that the reduction of pay would operate injuriously on those who live in this vicinity. He asked the gentleman, however, whether, if gentlemen who live in the vicinity leave their seats and attend the courts, being absent for a week or fortnight at a time, they do not receive just as much pay as if they were in their seats? Mr. H. said, he had been here now three terms, and he never had been one day absent from his seat; and those who had lived nearer the city certainly had in this respect an advantage over those who were more remote. It appeared to him wholly improper to reduce the allowance for travel; he was as much in favor of a reasonable reduction as any man, but he was also in favor of equal justice, and therefore moved this amendment.

Mr. WRIGHT said, if the remarks of the gentleman from Maine were founded in fact, they were entitled to great weight. But he believed the gentleman must be mistaken as to the facts. For himself, he said, he had always given credit to the Government for every day on which he had been absent from the House. If a different practice prevailed, it was a wrong which ought to be redressed.

Mr. HILL said, he had understood it to be the universal practice, where gentlemen had been absent for a day or two only, to receive for those days as though they had been present. His honorable friend who reported this bill was a member of the bar, and attended the Supreme Court during its sessions. Mr. H. asked, whether he did not receive pay for the time as if attending the House, in addition to his fees of fifty, a hundred or a thousand dollars for his causes in court? If that was the case, he might well afford to come to Congress, though the merchant or farmer could not.

Mr. ALEXANDER, of Virginia, rose merely to say, as the charge of the gentleman from Maine was general in its character, which stated it to be usual to settle the accounts of members from the commencement to the end of the session, without regard to their absence, that so far as it respected himself, and those with whom he was associated, he understood the practice to be different, and a deduction was generally made, as required by the law.

Mr. RHEA said, he had never been a day absent from the House since he had been a member of it; but he would vote against this proposition. Every gentleman, if absent only for a day, ought to give credit for that day in his account. But he was opposed to the amendment, because it assumed the idea of conduct which was improper in any gentleman, and which he would not admit had ever taken place.

Mr. MITCHELL, of South Carolina, said it would be impossible, it was now evident, to get through this bill before the day fixed for the adjournment

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of Congress. The House had been already two days engaged in the discussion of a single section of the bill. If we go on with it at the same rate, said he, we shall neither pass this bill nor any other. Other bills of far greater importance are depending, which will save to the nation more money than this bill, but which this bill prevents us from acting upon. Is it expected by any gentleman that we can go through the system of retrenchment at this session? It cannot be. As at the next session, the House could have a fuller, fairer, and better view of the subject—and taking all the circumstances into consideration, he moved to postpone the bill to the first Monday in December next. He made this motion, not to get rid of the bill, but from a conviction that the House, by persisting in the discussion of it, would effect nothing. He was a friend to retrenchment, but the system now presented, as a whole, was one which he could not approve.

Mr. NELSON, of Maryland, in reference to what had fallen from Mr. HILL, thought it proper to state, as he was one of those who had been called from his attendance on this House for a few days during this session, that it would be found, on examination, that, for the time during which he had been absent, he had not received either pay or rations.

Mr. VAN WYCK considered the motion for the postponement as virtually a motion to reject the bill, whatever were the motives which led to it. To prevent that motion, and all others aside from the main question, and to save time, Mr. VAN WYCK again required the previous question.

The call was not sustained by a majority of the members present.

Mr. CAMPBELL, of Ohio, was wholly opposed to the postponement. It would defeat the bill, if agreed to. This session, said he, we are told we have not time; the next session it will be out of season. Many members will not be re-elected, and they will argue, that it is improper to legislate for their successors, &c. If we are to act upon the subject at all, it must be now, before the occurrence of another election. The gentleman from Maine had asked, what revenue did the people of the State of Ohio pay? Why, Mr. C. said, if they wear fine coats, they pay duties on them, and for every article of foreign growth or manufacture which they consume. On the doctrines of theology, he would not undertake to contend with a gentleman who seemed to be so thoroughly accomplished in them.

The SPEAKER here repressed the range of the debate, as being too wide for a question so limited as that of postponement.

Mr. MITCHELL, of South Carolina, finding his motion for postponement had not the effect to put an end to the debate, which was his object, withdrew his motion.

Mr. ARCHER, of Virginia, understood the proposition of Mr. HILL as a general intimation that it was the practice of members of this House to receive pay during occasional absence from it. His object in rising was, to disclaim and deny, for the delegation from Virginia, the existence of any

practice of that sort, and to assert that there was no member of that delegation who was capable of claiming such an allowance.

Mr. LONG renewed the motion withdrawn by Mr. MITCHELL. In doing so he wished to be distinctly understood, to be decidedly in favor of the system of retrenchment, and wished to have a full view of the subject to enable us to act understandingly, and adopt an equal system of retrenchment that would bear equally upon all; but it was evident that, if we now took it up, the time was too short, and that, by so doing, we should do nothing more this session. This bill was not intended to have any bearing on the present session; it was, therefore, not essentially necessary to act upon it just now, to the evident delay of all other business.

Mr. CANNON said he should vote for the postponement to avoid a further consumption of the time of the House in vain, as had happened upon a similar question at the last session of Congress. He was, he said, most decidedly opposed to any reduction of the pay or emolument of any member of Congress. He did not believe it to be the deliberate opinion of many members on this floor that the pay of the members is now too high, or that it ought to be reduced. The situation of the finances had been referred to as a reason why this little pitiful saving should be made. He did not believe, for himself, that the finances of the nation were such as to require the House to go into this sort of retrenchment. If retrenchment was to be made, it ought to be in a different way. If we undertake retrenchment, said he, how ought it to be begun? In the first place, get rid of those officers and persons for whom you have no occasion whatever. He regretted that the committee had thought proper to begin their plan of retrenchment where, even in their own opinion, it was not necessary. He had always been an advocate of retrenchment where it could be made in a proper way; but the situation of members of this House, in a pecuniary point of view, was worse than that of any other officers of the Government. [The SPEAKER here again checked the range of the debate.] Mr. C. said he should vote for the postponement of this bill upon a thorough conviction, that, if a majority was for it, it was yet impossible it should be carried into effect at the present session. There were very few who were of opinion that the members of Congress could, in justice to themselves, agree to the system of retrenchment in the shape in which the committee had presented it to the House.

Mr. ALEXANDER SMYTH was of opinion that it was not now necessary to occupy any more of the attention of the House with the measure before it, but to put it off to the next session. He was in favor of the principle, recommended by the Committee, of reducing equally the expenses which the nation is put to in paying salaries to members of Congress, to the various officers of the Government, Heads of Departments, &c. But it was now obvious that this object could not be accomplished during the present session. The Committee of Retrenchment has acknowledged that the system which they have reported is deficient; that it is not in that perfect shape that

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could be wished. He thought it manifest, considering how short a time of the session remained, that it was inexpedient the House should be any longer delayed by a consideration of this bill. As then it was not, if passed, to operate till the next session; as the whole system is not matured, and cannot be without sacrificing all the remainder of the session, and perhaps not then, he should vote for the proposed postponement of this bill.

Mr. SMITH, of Maryland, concurred in the sentiments expressed by the gentleman from Virginia, (Mr. SMYTH.) Were it not for the bill now before the House, the bills concerning the Army and Navy might be passed, which would save \$300,000 annually to the country, whereas the present bill only proposed a saving of seventy or eighty thousand dollars, and that from the pay of the members. Mr. S. was not indisposed to reduce the pay of the members, but he was opposed to the contemplated reduction of the salaries of the clerks, &c. This bill, he said, was only a small proportion of a great system of reduction, and now this was to be pressed upon the House, and the other parts of the system to be laid over—for it would not be pretended that it was practicable to go through with all the system at the present session. If those bills to which he had alluded (the Army and Navy bills) were passed, the House would derive some credit from them. Something worth while would be retrenched. One great reason, he observed, that was urged in favor of the bill, was the state of the finances. The Committee of Ways and Means, Mr. S. said, had not yet reported on the subject. A report had been made upon it, indeed, by the Committee on Retrenchment, but it was a report in which he could not concur. He should state in his place, that, after all the appropriations of the year were paid, and after all the unavailable funds were deducted, there would remain, upon the present estimate of the expenditures, &c., a balance of \$721,000 in the Treasury at the expiration of the year 1822. There was nothing in the situation of our finances, then, he said, that required the immediate passage of the bill. Mr. S. further went on to state that, at the end of the year 1823, presuming the expenses to remain as at present, and the receipts to be as contemplated by the Secretary of the Treasury, there would be in the Treasury a balance of one million nine hundred thousand and odd dollars. The idea of taxation thrown out by the gentleman from Ohio, therefore, ought not to operate on the minds of members. There is no danger of taxation, said Mr. S. Provided you go into no new expenditures, there will be no occasion for it. With regard to the operation of the present system of revenue, which had been referred to, Mr. S. said, it certainly did not bear so hard on Ohio as on the Atlantic States, because there they pay no tax on salt or sugar, nor on spirits; and those three items form a very considerable portion, indeed, of all the revenue from customs. Therefore the gentleman from Ohio had no right to complain. The sugar tax is a million and a half of dollars—Do the people of Ohio pay any part of that? The tax on salt im-

ported is \$80,000. Do they pay any part of that? Mr. SMITH concluded by moving to lay this bill on the table, to take up the Military Appropriation bill.

Mr. TRACY having required the yeas and nays on this motion—

Mr. SMITH withdrew it, his object being to save time, and not spend it.

Mr. TRACY was opposed to the postponement of the bill, as he was to every other motion, of whatever description, calculated to defeat or delay its passage. He said that, although he was a member of the committee which reported the bill, he had not been very anxious to introduce it to the House, because he doubted the temper of the House on this subject, and was unwilling to incur even the suspicion of hunting popularity; but, as the bill had been introduced, and was now fairly before the House, he would be the last man to desert it, or to adopt any course to impede its progress. Mr. T. said he could not discover the force of the arguments which had been urged by the gentleman from Virginia, (Mr. SMYTH,) or by the gentleman from Maryland, in favor of the postponement. The first objection which had been made to the present decision of the subject was, that the Committee of Retrenchment had not yet matured and presented their whole system, and that we ought not to act on a part until we had a view of the whole ground. This objection, Mr. T. said, was founded on a mistake. The committee had brought before the House all the measures which they proposed to do at the present session. It was true that there was one subject which the committee had not acted upon, but it was impossible that it should do so before the adjournment of Congress. But admitting, said Mr. T., that they have yet behind important propositions to submit, does it follow that the House ought not to act on those which were now before it? He thought not. First dispose of these, and he would assure the House, if there was time, the committee would not be neglectful of its duties. He thought it an insufficient reason to do nothing, because we could not do all that was desired. It was also objected by the gentleman from Virginia that there was not time at this session to go through the measures recommended by the committee. Mr. T. thought there was a great sufficiency of time, if there was in reality that disposition which had been so frequently and loudly professed of retrenching the expenditures of the Government. All the measures which had been submitted by the committee were plain and simple in their provisions; and members, if they were disposed, could determine at once whether they would vote for or against them. They afforded very little ground for debate. But, said Mr. T., suppose that we cannot accomplish them all, shall we not effect as much as we can? It has again been objected, that, although we may pass all the bills, the Senate will only pass the one reducing our compensation, and postpone the rest. Mr. T. could not believe this would be the case; but, if it should be, the responsibility is on them, and not upon us. Let us do right, and trust that they will; and at the worst we shall

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only be reduced one year before the other officers of Government are; which, although it might be wrong, would not be productive of serious mischief. The gentleman from Maryland (Mr. SMITH) had urged, in favor of the postponement of the bill, that the state of the Treasury did not require this retrenchment, and had pledged himself that there would be a balance in the Treasury at the end of the year of 721,000 dollars. Mr. T. said, that, however much he might respect the authority of the gentleman, he could not subscribe to this opinion. The committee to which he (Mr. T.) belonged had made a most diligent and laborious investigation of the subject, and had come to a result very different from this—a result which the committee was ready to sustain, by the most official documents that could be required. But, said Mr. T., all these arguments, if they are good for any thing, can be most appropriately urged against the passage of the bill. If gentlemen seriously think that we have not time to go through all the measures reported by the committee, and that therefore we ought not to pass any of them; or if they think the condition of the Treasury does not indicate the necessity of this retrenchment; then they can be at no loss to vote against the bill on its passage. Gentlemen who for any of these reasons shall vote against the bill, would in his opinion stand on high and honorable ground; but he begged them to meet the question fairly, and hoped that none would shrink from the responsibility of deciding the present bill on its merits. Gentlemen had seemed to regard this bill as originating from a spirit of innovation on the part of the committee. This was not the case. The committee had not been disposed to make innovations, but to resist them. The present compensation of public officers was the result of innovation on the good old republican system. It was that we might come back to this system, and because the finances of the country imperiously demanded we should, that the committee had reported this and the other bills. Mr. T. also endeavored to show that the embarrassment of acting on this subject would be much greater at the next than at the present session.

Mr. CAMBRELENG said he was sorry to see that, whenever retrenchment was mentioned in this House, there was a disposition to take the most favorable views of our revenue; and, whenever the question of taxation occurred, to take most gloomy views of it. When the question of taxation was before the House at an earlier period of the session, said Mr. C., I was sanguine as to revenue. At that time the chairman of the Committee of Ways and Means told us that he wanted a million of dollars—[Mr. SMITH, of Maryland, said, across the House, that he had no recollection of having said so.] The gentleman himself told me so, said Mr. C.—Mr. SMITH begged that the gentleman would confine himself to what had been said on this floor, without referring to private conversations.] Mr. C. said he had said no more than what had been stated to him when the question of taxation was under consideration. Now, it was a question of retrenchment, and the

case was different. Mr. C. said he fully believed that the statement of the gentleman, made to-day, was correct. But, admitting that to be the fact, it was not sufficient to meet the purposes of this Government. We have, said he, not only to pay the expenses of the Government, but to provide for the extinguishment of a public debt of ninety-three millions, and, whatever gentlemen may tell us, it never will be extinguished by new taxation. There never was a national debt extinguished but by retrenchment. It never will be paid in any other way. All history shows us, that an uniform system of retrenchment is the only practicable way to reduce a public debt. In saying this, he did not pledge himself that he would adopt the opinion or system of this or that committee, or of this or that man. He would consent to reduce the salary of no public officer who deserved his pay. The reason why he was opposed to the postponement of this bill, was, that it ought to be fairly met. The nation expected it of Congress when they began to retrench the compensation of public officers, that they would fairly meet the question as to themselves first. Mr. C. said he considered all the laws, raising the salaries of the officers of this Government, passed in the year 1815, to have been, taking into view their continued existence, a fraud upon the nation. Depreciation of currency was the plea for them. Is it not now appreciated; and are they repealed? Is not that fact alone a reason for going back? It is. I say, begin here; how far we are afterwards to go, let every gentleman judge for himself. As to taking up the whole system of retrenchment at this session, no one could dream of it. We must go on by degrees, and do one thing at once, until we get through the whole.

Mr. SMITH, of Maryland, said, this was the first time, during this session at least, that he had heard members indulge themselves in stating, in debate, private conversations they may have had with other members. Was that a proper course? He apprehended not; because it tended to bring gentlemen into conflict on matters not properly belonging to the business of the House. Gentlemen ask me questions, said Mr. S. I answer them. They misunderstand both the answers and the questions. That is not my fault, but theirs. Mr. S. called upon the House to remember, that he had never been so sanguine, in regard to the revenue, as the gentleman from New York. It was the gentleman himself who said that the customs would produce one million more than the estimate. It is very likely, said Mr. S., that the honorable gentleman might have heard me say, for I have said so to many members, that there was a necessity for more revenue—not for the present year, not for the next year, but whenever it should become necessary for the Commissioners of the Sinking Fund to pay off a quantity of the public debt, redeemable in the year 1825. Then there will be occasion for more revenue. If the gentleman could charge his memory with the particulars, he would find that the conversation, which took place between us, was to that point. The sum total of conversation on his part, Mr. S.

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said, must have been, that more revenue would be wanted in the year 1825.

Mr. WRIGHT said, he was very sorry that the gentleman from New York had used the language, that a fraud was practised on this nation, when the pay of the members was fixed at eight dollars per day. There was, indeed, Mr. W. said, at the time of that act, an attempt to produce an excitement upon the subject in the public mind. But it failed; in Maryland it fully failed. Why, asked Mr. W., should not a member of this House, who represents 35,000 freemen, be decently compensated? I told my constituents, when the law passed, that it did not increase their burdens, or lessen their enjoyments, as much as a single glass of gin each per year. Is there any man who comes here, whose attention to his domestic concerns, had he remained at home, would have been of no consequence? The people know whom they elect, and they select for their representatives those who, when at home, best manage their own concerns. He protested against the assumption, that there was a fraud practised on the people in raising the pay of Congress—and he considered this effort now to be, if it was in order he would say, a mere pretence—a mere electioneering scheme. But he would not violate order by saying what it was: if facts proved it to be so, he could not help it. Mr. W. then went on to examine the grounds on which the pay of the members had been raised to eight dollars, and how he had reconciled his constituents to it, by showing them that the judges, who stay in comfort at home with their families, received twenty-five dollars per day for their services, whilst he, removed from his family, and living upon expenses here, received but eight dollars per day, &c. The compensation of every other officer of Government, said Mr. W., had been raised once or twice before we raised our own; and, when we did it, we were denounced for it—by whom? By popularity hunters; and they got their reward. There was one or two of them, Mr. W. said, in his country, to whom he had had the honor of giving a pretty genteel dressing. He wished he had the portraits of some of the men to whom his remarks were addressed. And now we are told we commit a fraud upon the people. [Mr. CAMBRELENG disclaimed any design of imputing fraudulent intention to those who passed the law raising the pay of members. The SPEAKER requested Mr. W. to confine himself to the question.] Mr. W. said, he was replying to the remarks of the gentleman from New York. [Mr. CAMBRELENG said, the gentleman imputed to him what he did not say.] Mr. W. said, the gentleman did say, in the hearing of the whole House, that a fraud had been committed. [The SPEAKER insisted on the debate being confined to the question—that of postponement.] Mr. W. said he hoped the bill would be postponed; and if he could fix the day of postponement, it would be doomsday. Eight dollars per day, in specie, Mr. W. went on to say, was allowed by the State of Maryland to her Representatives in Congress during the whole of the Revolutionary war—and was it fraudulent now to pay them the same? If the bill was postponed to the next

session, Mr. W. said, it would, he believed, have very few friends indeed then, for the elections would have passed before that time. If any change was intended to be made, it certainly ought to be made now. There were gentlemen here who required all their pay, and more too, to support them—and the whole of it was not more than enough for any man who comes here in the capacity of a Representative. If a man is not fit for something at home, he is not fit to come here. What State had asked for this measure; what part of the people have petitioned for it? None. Mr. W. denied that the compensation was now too great, or even sufficient. Let any man, said he, who has got a young wife bring her here, and keep her here during the session, and see whether he will make any profit by it. And even with regard to those who have no wives, it cannot be said that, when they calculate the variety of expenses incidental to human frailty, their compensation is too great.

Mr. BUTLER, of New Hampshire, said he was opposed to the postponement of the bill under consideration to the next session. He had long been satisfied that the state of the finances of the nation required retrenchment, and he was disposed to commence the work of economy. As a part of the system of necessary reform contemplated, and in part reported by the committee, he was willing to include the members of Congress, though he thought their compensation by no means too much. He said, if Congress reduced their own pay, the salaries and compensation of other officers might be reduced, and many unnecessary offices abolished, without detriment to the public service, and he would therefore agree to the passage of the bill. He could not consent to the postponement of the measure, inasmuch as it had been several days under consideration, and had been taken up this morning by a vote of 123 to 30. He said the House were bound to meet the question and decide it fairly, and could not, after two days' debate upon it, postpone the subject, without being exposed to a suspicion of a desire to avoid it. Mr. B. said he was pleased with the calculations and argument contained in the report of the committee, but should have preferred to have their entire system of retrenchment before the present bill was discussed. He was aware that there was not time, at this period of the session, to discuss and pass upon the bills which the committee had presented, but he thought the House had proceeded so far in the discussion upon the bill now before it, that it would be deemed trifling now to postpone it. He said, when this bill was first presented, and only a part of the system of retrenchment exhibited, he moved to recommit the bill and report of the committee, that the committee might prepare and complete their system, and present it altogether at the commencement of the next session. He then thought, as there was much other important business before the House, it would be prudent to delay this bill till the whole plan of the committee should be completed, which could not be done before the next session. Then, he said, at that early stage of the discussion, both the gentlemen (Mr. A. SMYTH, of Virginia, and Mr. SMITH, of Maryland) were op-

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posed to a recommitment and postponement of the bill, but now, after two days debate upon it, they were very solicitous for a postponement. He said he had been charged, on account of his motion to recommit the bill, with a disposition to avoid the question; but he would assure gentlemen he was willing to meet it, and hoped it would now be decided, though he said he should regret exceedingly to have the bill reducing the compensation of members only passed, without making a further retrenchment, because he said it would be construed into an electioneering project.

Mr. LITTLE was in favor of the postponement, and replied briefly to the remarks of Mr. BUTLER. He was not afraid of meeting the question, nor was he disposed to trifle with the subject. And it was because he was unwilling to trifle with it, or with the public interest, that he was in favor of the motion, for it was very evident that, during the time occupied in this discussion, other bills making greater savings might be passed, and which would reflect as much honor on the House as this. This bill was only prospective in its operation, and if the Treasury is now empty, the passage of this bill will not contribute to fill it, since it does not take effect until the next session. There were bills of an important nature on the table, enough to occupy all the little remaining time of the session, and he hoped the time would not be spent in discussing this, which was of less importance, and of which the passage, at best, was doubtful, and which, when passed, could not take effect until the next session.

Mr. BALDWIN was opposed to the postponement, because the question had been pretty well discussed, the minds of members were made up, and it would be better to meet the question directly. The lateness of the period of the session was no argument for him against acting upon it. We have fixed a day for terminating the session, it is true, said Mr. B., but when we did it, I presume it was with an expectation that we could get through all our business within the time proposed. He regretted to see the disposition to hurry off this business. The Committee of Retrenchment had reported to this House that there would be an actual deficiency of revenue, for the present year, of \$2,100,000. The Chairman of the Committee of Ways and Means had asserted, on the other hand, that there would be a surplus of \$721,000. If the first statement was true, what was to be done? And if the last were true, a surplus of \$700,000 was hardly sufficient to provide for the chapter of accidents. But if it should turn out not to be true, Congress would have to be convened in order to authorize a loan. Of all times in the session, then, this is the time for retrenching expenses. The committee on that subject has come forward with items of their calculations, and the chairman has declared himself ready to support it with documents. And, Mr. B. said, he took it for granted that the Chairman of the Committee of Ways and Means would not have come forward in the solemn manner he did to-day, without being also prepared with documents to support his statement. Upon an examination

and due understanding of this point, Mr. B. said, his decision depended. If he was satisfied that the Committee on Retrenchment was right, he should vote to cut down two millions somewhere. If he was satisfied that the gentleman from Maryland was right, he would cut down nothing but abuses—he would lop off nothing but excrescences—nothing but what was useless. Now, the gentlemen being ready with their statements, the contest could be settled in a few hours. A great proportion of this House thinks that retrenchment is necessary. I am prepared to say, (added Mr. B.,) if the revenue falls short of the expenditure, it is the duty of every man to reduce the expenditure. He would not now say what errors had heretofore been made by committees on the subject of the finances; but he would say, that you must not rely on their estimates without seeking their documents. There had been important mistakes heretofore committed in that way—misstatements of millions. He did not mention this reproachfully; for it was difficult to estimate correctly what must necessarily be uncertain. Our expenses are certain, and we ought to be equally sure of the competency of our revenue to meet them. He wanted, he said, to see these documents. As to taking statements from a committee as a matter of faith, to bind him in opposition to a matter of reason, he, for one, would not do it, for the best of all reasons—that the experience of many years shows that they are often grossly inaccurate.

When Mr. B. concluded—

The question was taken upon the proposed postponement to the first Monday in December next—yeas 33, nays 132, as follows:

YEAS—Messrs. Allen of Massachusetts, Archer, Ball, Barber of Ohio, Barstow, Bayly, Blackledge, Borland, Cannon, Dickinson, Fuller, Gorham, Jones of Tennessee, Lathrop, Little, Long, McCarty, McNeill, Minor, Newton, Rankin, Sawyer, Scott, Sioane, S. Smith, Alexander Smyth, Sterling of Connecticut, Trimble, Tucker of Virginia, Van Rensselaer, Williamson, Wilson, and Wright.

NAYS—Messrs. Alexander, Baldwin, Barber of Connecticut, Bassett, Bateman, Blair, Breckenridge, Brown, Buchanan, Burrows, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cassedy, Chambers, Cocke, Colden, Conduct, Conkling, Conner, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Farrelly, Findlay, Floyd, Garnett, Gebhard, Gilmer, Gist, Gross, Hardin, Harvey, Hawks, Hemphill, Hendricks, Hill, Hobart, Holcombe, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, Jones of Virginia, Kent, Keyes, Leftwich, Lincoln, Litchfield, McCoy, McLane, McSherry, Mallary, Matlack, Matson, Matlocks, Mercer, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, New, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reed of Maryland, Reid of Georgia,

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Rhea, Rich, Rochester, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sergeant, Arthur Smith, W. Smith, Stevenson, Stewart, Stoddard, Swan, Tatnall, Taylor, Thompson, Tod, Tomlinson, Tracy, Tucker of South Carolina, Upham, Vance, Van Wyck, Walker, Walworth, Warfield, Whipple, White, Whitman, Williams of North Carolina, Williams of Virginia, Wood, Woodcock, Woodson, and Worman.

So the motion was negatived.

Mr. TON again called for the previous question, but the same not being demanded by a majority of the members present, could not be put.

The question was then taken on the amendment to the instructions, as proposed by Mr. HILL, as above described; and it was determined in the negative.

During the remainder of this day's proceedings, there was further desultory debate, in which the following gentlemen took part, viz: Messrs. RHEA, JONES, WILLIAMS of North Carolina, WALWORTH, F. JONES, ALEX. SMYTH, MERCER, KENT, and ROCHESTER.

The actual proceedings, exclusive of debate, were as follows:

Mr. CONDUCT moved to amend the proposed instructions on recommitment, by expunging therefrom the words "mileage, six dollars for every twenty miles, also to make the;" which motion was disagreed to.

Mr. JONES, of Tennessee, then moved to amend the said instructions, so as to require the committee to amend the bill in such way as would allow the members four dollars per day for their attendance, and four dollars for every twenty miles of their necessary travel to and from the Seat of Government.

And the question being stated—

Mr. SANDERS then withdrew his motion to recommit the bill, and Mr. JONES's motion fell with it of course.

Whereupon Mr. PATTERSON, of New York, renewed the motion to recommit the bill, with the instructions proposed by Mr. SANDERS, modified in the former part thereof, as proposed in the amendment moved by Mr. JONES. And the question being stated thereon—

Mr. LONG moved to amend the said instructions by striking out *four* dollars, and in lieu thereof inserting *seven* dollars.

Mr. BASSETT then moved to amend the said motion to recommit by expunging all the instructions.

The SPEAKER declared this motion not to be in order, it being in effect a call for a division of a question declared by the rules of the House not divisible.

From which decision Mr. BASSETT appealed to the House; and upon the question being taken, Is the decision of the Chair correct? It was decided in the affirmative.

The question then recurred on the amendment proposed by Mr. LONG, and, being taken, it was determined in the negative.

Mr. BASSETT moved to amend the instructions by striking out *four* dollars and inserting *six*; and

the yeas and nays being ordered on that question, it was decided as follows:

YEAS—Messrs. Alexander, Baldwin, Barber of Ohio, Bassett, Blair, Breckenridge, Burton, Cambreleng, Campbell of Ohio, Chambers, Conkling, Crafts, Crutcher, Cuthbert, Dane, Durfee, Dwight, Edwards of North Carolina, Floyd, Gebhard, Gilmer, Gist, Hardin, Harvey, Hendricks, Herrick, Hobart, Holcombe, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, Jones of Virginia, Kent, Keyes, Leftwich, Lincoln, Long, McCoy, McLane, Matson, Metcalfe, Moore of Alabama, New, Overstreet, Plumer of New Hampshire, Rankin, Reed of Maryland, Reid of Georgia, Rhea, Ross, Ruggles, Sanders, Scott, Sergeant, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Tatnall, Thomson, Tucker of South Carolina, Vance, Van Wyck, Walker, Whipple, Williams of North Carolina, Williams of Virginia, Wilson, and Woodson—71.

NAYS—Messrs. Allen of Massachusetts, Archer, Ball, Barber of Connecticut, Barstow, Bateman, Bayly, Blackledge, Borland, Brown, Buchanan, Burrows, Butler, Campbell of North Carolina, Cassidy, Cocke, Colden, Condict, Conner, Cook, Cushman, Dickinson, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Eustis, Farrelly, Findlay, Fuller, Garnett, Gorham, Gross, Hawks, Hemphill, Hill, Jones of Tennessee, Lathrop, Litchfield, McCarty, McSherry, Mallory, Matlack, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Moore of Virginia, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, Newton, Patterson of New York, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of Pennsylvania, Reed of Massachusetts, Rich, Rochester, Rogers, Russ, Russell, Sawyer, Sloane, S. Smith, Sterling of Connecticut, Stevenson, Stewart, Stoddard, Swan, Taylor, Tod, Tomlinson, Tracy, Tucker of Virginia, Upham, Van Rensselaer, Walworth, Warfield, White, Whitman, Williamson, Woodcock, Worman, Wright—92.

So the House refused to strike out four dollars and insert six.

Mr. WILLIAMS, of North Carolina, then moved to recommit the bill to a Committee of the whole House, and make it the order of the day for this day, his object being to restore the bill to its original shape, and the yeas and nays being ordered on that question, it was decided in the negative—yeas 56, nays 105.

Mr. A. SMYTH moved to amend the instructions by striking out all after the word bill, and to insert in lieu thereof the following:

"That, from and after the last day of June next, the pay for travelling and attendance of members of the Senate and House of Representatives; the pay and allowances of their officers and clerks; the salaries of the Secretaries of State, the Treasury, the Navy, and the War Departments, and their clerks; of the Attorney General and his clerk; of the Postmaster General, his assistants and clerks; the Commissioner of the Land Office, and his clerks; of the Commissioners of the Navy Board, and their clerks; of the Treasurer, and his clerks; of the Comptrollers of the Treasury, and their clerks; of the Auditors of the Treasury, and their clerks; and the Register, and his clerks, shall be reduced twenty per cent."

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Letter from Mr. Rodney.

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Mr. ROCHESTER moved to add the following to this proposed amendment:

"Excepting such clerks whose annual salary does not amount to more than \$1,000; and provided that the reduction of no clerk's salary, which now exceeds \$1,000 per annum, shall be reduced below said sum."

But before any question was taken thereon, the House adjourned.

MONDAY, April 29.

Mr. SERGEANT, from the Committee on the Judiciary, to whom were referred the petition of Anthony Dey and James Macdonald, and the petition or remonstrance of David Melville; and also a report of the Committee on Agriculture on the first mentioned petition, made an unfavorable report; which was read and ordered to lie on the table.

Mr. BLACKLEDGE, from the Committee on the Public Buildings, made a report on the petition of William R. Maddox, accompanied by a bill for his relief; which bill was read twice, and committed to a Committee of the Whole.

Mr. COCKE moved that the House take into consideration a resolution, heretofore submitted by him, to appoint a committee to investigate the state of the several departments of the Government during the recess of Congress; and the question being taken thereon, the House refused to consider the motion—ayes 57, noes 77.

A message received from the Senate containing the result of the conference between the committees of the two Houses in relation to the bill for granting to the States of Mississippi and Alabama three per cent. upon the sales of public lands within the said States, was read, and Mr. RANKIN moved that the House do so far recede from their amendment to the amendment of the Senate as to comply with the amendment recommended by the committee of conference, which was agreed to. A further message received from the Senate, returning the navy appropriation bill, with sundry amendments, was taken up.

Mr. COOK moved to disagree to the amendment in relation to excepting from the proviso the defaulters who became so in consequence of the depreciation of Treasury notes. Those notes, he said, had long disappeared from circulation, and if any person had been so remiss as to obtain no settlement for so long a time, he thought he ought not to be excepted from the operation of the general proviso.

A few further remarks were made by Mr. WALWORTH against, and by Mr. FULLER in favor of the motion to disagree, when the question was taken thereon, and lost—ayes 54, noes 58. Then the amendment was agreed to.

LETTER FROM MR. RODNEY.

The SPEAKER communicated to the House a letter addressed to him by CÆSAR A. RODNEY, a Senator of the United States from the State of Delaware, explanatory of his transactions with the War Department, as referred to in the report of the select committee to whom was referred the

reports of the Secretary of the Treasury upon the subject of the examinations of the land offices in the States of Ohio, Indiana, Illinois, and Missouri; which letter was read and ordered to lie on the table. The letter is as follows:

HON. PHILIP P. BARBOUR,

Speaker of the House of Representatives.

SIR: In a report made to the House of Representatives, by the select committee, to whom were referred several communications, from the Secretary of the Treasury, relative to the manner in which the land offices have been examined, it is stated—

"The committee believe it to have been usual in the War Department also to employ members of Congress as counsel in behalf of the United States, and they refer particularly to the instances of Mr. Baldwin, of the House of Representatives, and Mr. Rodney, of Delaware, of the Senate, employed and paid as counsel, under the direction of the present Secretary of War."

With respect to myself, an error has been, unintentionally, committed; as I was not, when employed or paid, a member of Congress, either of the Senate or of the House of Representatives; this will appear from the sequel. On the 6th of March, 1820, I received a letter from Major Babcock, of the corps of engineers, who was stationed at Newcastle, requesting my professional services in the case of an ejectment brought for the Pea Patch, the trial of which was expected to take place at Trenton, in the circuit court of the United States for the district of New Jersey, on the first of April following. Agreeably to this desire I attended the court, but the trial was postponed in consequence of the absence of material witnesses on the part of the defendant. Rules were obtained for the taking their depositions, and also for a special jury, and for a survey of the disputed premises.

In the Summer of 1820, a detailed report of the case was prepared and transmitted to the Department of War. At the October term, in the same year, I attended again at Trenton; and was there on the day of the general election in Delaware, when Representatives to the 17th, or present Congress, were chosen. The result, however, was not known until some days after my return.

In the month of November following, I was paid for the services rendered, and I have not since been at the court.

The Constitutional term of the present House of Representatives commenced on the 4th March, 1821. Until that period arrived, I was not a member of Congress, and might have held any other incompatible office under the Constitution of the United States or of Delaware.

The Legislature of the State of Delaware chose me a Senator of the United States on the 10th of January last, but the certificate of my election was not received in consequence of my absence from severe indisposition, until the 24th of that month, when I took my seat in the Senate.

This simple narrative of facts, given according to the best of my recollection, assisted by the original papers lately received, is respectfully submitted to the consideration of the House of Representatives with a view of correcting any erroneous impressions which may have been made by the unintentional mistake of so respectable a committee. I have, &c.,

C. A. RODNEY.

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Post Office Investigation.

H. OF R.

The amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1822," were read and agreed to by the House.

POST OFFICE INVESTIGATION.

Mr. SANDERS, from the select committee appointed to investigate the Post Office Department, made the following report thereon :

The select committee to whom was referred the investigation of the affairs of the Post Office Department, have had, according to order, the same under consideration, and beg leave to report :

That, as the attention of the committee was directed to no specific object but to the fiscal affairs of the Post Office Department generally, they have endeavored to give to their examination such a direction as they considered most likely to elicit any improper transactions in the Department, if any such existed, and at the same time to exhibit its concerns in such a point of view as would best enable the House to judge of its management and condition.

The investigation, however, which the committee have been enabled to make, has been of too partial a character to prove satisfactory even to themselves. The lateness of the period at which it was commenced, the preliminary calls which they found it necessary to make, added to their other duties on the House, forbid their going into that extensive inquiry into the different contracts, receipts, and expenditures, of the Department, which would have required their exclusive attention for weeks, but from which alone a full, fair, and correct report of its various transactions can ever be made. Partial abuses may be examined and exposed, and thus lead to the correction of others of more consequence, though more difficult to discover. The points of inquiry to which the attention of the committee has been especially directed, and the facts which they have been enabled to collect, may not prove without their use. These points are as follows, viz :

1. Whether duplicates of all contracts and proposals made and entered into with the Department, have been lodged with the Comptroller of the Treasury ?

2. Whether, in any instance, contracts have been improperly given to one person, in preference to another ?

3. Whether the public money has been improperly advanced to contractors, or other persons in the service of the Department, in anticipation of their services ?

4. Whether certain deputy postmasters have made due returns of the expenses incident to their office, and whether they have not been allowed for extravagant expenditures ?

Whether the Postmaster General has taken timely steps for the recovery of the different sums due the Department from deputy postmasters.

I. With respect to the first point of inquiry, the committee called on the Comptroller of the Treasury, to be furnished with the duplicates of certain contracts and the proposals, for the purpose of examining the same, which they were unable to obtain. They then addressed a letter to the Comptroller of the Treasury, for the purpose of knowing on what principle the accounts of the Postmaster General were audited and settled. In reply, they learnt that from the practical construction given to the act for regulating the Post Office Establishment, the receipts, and not the contracts, were taken as the criterion of settlement, and

the Post Office accounts audited accordingly. If the duplicates of contracts and the proposals, were merely to be deposited for safe-keeping with the Comptroller, and not as vouchers to direct him in passing upon the different payments made by the Postmaster General, it could be a matter of but little consequence whether the requisites of the law in this particular were complied with or not. The committee now learn that a different mode of settlement is determined on ; and, though it may be attended with some difficulty and delay, it certainly will produce more correctness and responsibility.

II. On the second point of inquiry, the committee learnt, from rumor, that contracts had been improperly obtained from the Department, and sold out to considerable profit. But, from a careful examination of the books in which are entered the different proposals, though they find many instances in which the contract was not given to the lowest bidder, still they have not been enabled to discover any one which particular circumstances might not have justified.

III. On the third point of inquiry, as to moneys advanced contractors, and other persons in the service of the Department, in anticipation of their services, the Committee find that, on the 1st day of January last, there were on the Post Office books unliquidated accounts for moneys and debts thus advanced, the amount of

\$54,354 00

That, since that time, there has been repaid by services rendered - - - 17,288 75

That, of this sum, there was advanced by the late Postmaster General - - - 13,707 49

The most of these advances may have been properly made in aid of post office contracts, though in some instances no such reason could have existed. That, of this amount, there will probably be lost something short of \$10,000.

In connexion with this subject, the attention of the committee has been directed to the transportation of the mail between Philadelphia and New York, and the employment of Chester Bailey as agent and contractor with the Department. They find, so early as 1811, the mail between those cities was carried under the immediate control of the Department, under the superintendence of Chester Bailey, as agent, and with the property of the United States, purchased for that purpose. That, for the year 1814, as will appear from the annexed account of Chester Bailey, the expense of transporting the mail between Philadelphia and Jersey City, to have been \$9,154 20. That the Postmaster General then contracted with Chester Bailey, for the transportation of the mail on the same route at six thousand five hundred dollars, giving him the use of the United States' property. That this arrangement continued until 1818, when Chester Bailey agreed to take, at valuation, the United States' property, and continue the carriage of the mail at the same price. That the property was valued to him, by two contractors, at \$2,885, much less than the cost, or what must have been its real value. That, since that time, the mail has been carried, by contract, at six thousand five hundred dollars per annum. It further appears, that there has been paid to Chester Bailey, for various services as agent of the Department, \$1,042 53. That he receives an annual salary of \$800 as agent, besides his travelling expenses, when called on by the Department, in discharge of such duties as may be required of him. Whatever necessity may have existed for his employment, whilst the mail between Philadelphia

H. OF R.

Public Expenditures.

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and New York was carried at the expense of the Department, the committee can perceive no such necessity to exist at present.

The act regulating the Post Office Establishment declares that, in no instance, shall deputy postmasters receive a larger compensation than two thousand dollars, after deducting the expenditures incident to their office. It further provides, that every deputy postmaster, whose receipts shall amount to \$1,000, shall make an annual return of the expenses incident to his office. The act does not, in express terms, give to the Postmaster General a control over their expenses, many of which appear highly extravagant, and ought to be curtailed. From the annexed returns, it will be seen that the commissions of forty-one deputy postmasters, and the contingent expenses allowed for their officers, amount to - - - - \$112,066 75 to which should be added the extra compensation of the deputy postmaster in Washington, one of the number - - - - 1,000 00

Making - - - - \$113,066 75

The last object of inquiry with the committee, was for the purpose of knowing whether the Postmaster General had directed suits in all cases of failure on the part of deputy postmasters within the time prescribed by law, and if not, whether he had charged himself with the amount of their accounts, for failing to do so. This was a fact difficult to ascertain, as well from the multiplicity of deputy postmasters, the number against whom suits had been brought, and the particular time of instituting the same. The committee find from the balances as stated on the books of the Post Office Department, there appears due to the General Post Office, up to the first day of January last \$424,462 24½. That of this sum there was due from deputy postmasters in office, and who had gone out of office - - 370,108 24½. That of this sum there was in suit, as near as could be ascertained - - 100,000 00. But whether these suits were instituted in the time prescribed by law, the committee have not been enabled to ascertain.

In conclusion, the committee will submit a brief comparative view of the receipts and expenditures of the department, between a former and the last year.

The receipts of the Post Office Department for the year 1816, were - - \$961,782 00
For transportation of the
mail - - - - \$521,970 00
Compensation and incidental expenses - - 282,452 00
804,422 00
Balance in favor of the department - \$157,360 00

The receipts for the year 1821, were \$1,029,102 00
For transportation of the
mail - - - - \$814,998 06
Compensation and incidental expenses - - 365,003 00
1,180,061 00
Against the department - - - \$150,959 06

On the 31st of December last, there were six hundred and ninety-three contracts, for the carriage of the mail, on one thousand and forty-eight post routes.

But whether these increased objects of expenditure, or the want of a proper management in the Post Office concerns, has produced this large difference, the committee will not undertake to decide.

As the investigation of the committee has resulted in what may require legislative enactments, and as they have no power to report by bill, they submit the following resolution:

Resolved, That the committee appointed to investigate the affairs of the Post Office Department, be discharged from the further consideration of the subject.

The report was ordered to be printed, and laid on the table.

PUBLIC EXPENDITURES.

Mr. DWIGHT then moved that the House do consider a motion which he this morning laid on the table; and the House agreed to consider it—ayes 69, noes 57; which motion is in the following words:

Resolved, That a select committee be appointed to examine the decisions of the Second Comptroller of the Treasury, with the power to send for persons and papers, and leave to report at the next session.

Mr. CHAMBERS, of Ohio, expressed a desire to understand from the mover what was the precise object of his motion.

Mr. DWIGHT said he had been a member of the Committee of Expenditures, which was lately for several weeks investigating the expenditures of the Government, and particularly those which were under the control of the Second Comptroller of the Treasury. The particular object of this resolution was to have an examination into cases decided by that officer, in opposition to the opinions of the Auditors of the Treasury. The law constituting the office of Second Comptroller of the Treasury, it was well known to the House, gave to that officer the power of deciding, finally, on accounts which pass the Second, Third, and Fourth Auditor's Office. A year or two ago, on a settlement of the accounts of John H. Piatt, he was found to be indebted to the United States in a balance of \$48,000, which he was totally unable to pay, and, on that account, principally, a law was passed, at the last session, authorizing a settlement of his accounts according to equity, with a proviso, however, that no allowance should be made to his credit which should exceed the sum reported, in settlement, to be due by him to the United States. It is now alleged that, under that law, the Second Comptroller, in opposition to the opinion of the Third Auditor, made to J. H. Piatt allowances which made him a creditor of the Government for \$60,000 over and above the sum of \$48,000, for which he was previously reported to be indebted. The committee being of opinion that this was a legal question, and not within their province, it appeared to Mr. D. that justice to the individual making the decision, as well as to the Government, required an investigation of the principles on which this decision had been made. There was, at the bottom of this motion, no disposition to injure the individual who fills the office of Second Comptroller, but

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simply to promote justice in regard to all parties concerned.

Mr. Ross said he should have made no opposition to the appointment of a committee of a general character; but he had no idea of this House establishing a committee with inquisitorial powers, to make an investigation either favorable or otherwise, of a legal decision. The Second Comptroller of the Treasury is to the Third Auditor what the judge is to the jury. The duty of the Auditors is to judge more of matters of fact than of matters of a legal character. Mr. R. said he thought it his duty, not merely in consequence of the remarks which have been here publicly made, but because of the pamphleteering publications and newspaper paragraphs which had been put forth, calculated, and, for aught he knew, intended to injure the claim of John H. Piatt, to say a few words. That man, said Mr. R., has gone to his long home. I could have wished that his name might have been suffered to have rested in peace. He has rendered to this country services as great as any other man in this Government, I care not whom. He was an honest man, to say the least of him, and say what you will of him. He hoped, he said, that this House would not institute a committee clothed with the powers now proposed, for the purpose of giving their views, either of the matter of fact or of law, to the prejudice of the claim of the representatives of Mr. Piatt when it should come before Congress to be adjudicated by this body in its legal character. If there was to be any inquiry instituted, let it be a general one. If, said he, you are about to seek out persons against whom you are to let loose the dogs of war, bring forward your black list. Do not single out the case of this man because his claim happens to be one of considerable magnitude. Let your inquiry be general. Whatever might be other men's merits, Mr. R. said he had no hesitation in saying, that, when that man's claim came before the House, and the law-makers were not the law-expounders, the House would give that man his claim as reported by the Second Comptroller of the Treasury. Judges ought never to be expounders of the law which they themselves have made. Mr. R. said he should therefore vote against this resolution.

Mr. MONTGOMERY said the power proposed by this resolution to be confided to a committee, was one which the House was constantly in the habit of exercising, and which, as he understood the duties of the House, they ought to exercise. He was sorry that the gentleman from Ohio should have thought it necessary to raise an opposition to this resolution. What did the resolution propose? A mere inquiry into transactions between the friends of a man now deceased, and the accounting officers of the Treasury. Mr. M. said he did not, for his part, understand that any injury to the interest of the representatives of the late friend of the gentleman from Ohio, was to follow this inquiry. Was such a supposition a fair argument against this motion? Mr. M. said he could not consider the Comptrollers of the Treasury in the light of judges. Nor, did Congress consider them as such; for nothing was more common

than a re-examination by Congress of the accounts which those officers have refused to admit, &c. If, said he, we are to have accounts investigated judicially, let them be investigated according to the ordinary forms of courts of law, and not carried into a room in the Treasury Department, and there read over and decided upon. Let us have an examination and scrutiny of the accounts according to official and customary forms of courts, and then he would be disposed to yield undisputed assent to the judgments of these officers. But as long as accounts were revised and re-examined by the Comptrollers as they now are, there was a great propriety in examining them over again in Congress. Mr. M. said he could not believe that those Comptrollers were to sit as judges, because they would seem, under that view, to have the double character of executive and judicial officers. Those were powers which ought not to be blended. With these views, Mr. M. said he should certainly vote for this proposition. If the claim of Mr. Piatt's representatives was a just one, the committee would support the decision of the Comptroller. But, if it should be found that the claim was unfounded either in law or equity, the gentleman from Ohio himself must agree, that it ought not to be allowed.

Mr. WRIGHT made a motion to amend this resolution, so as to direct the proposed committee to investigate, not the decisions of the Comptroller, but the outstanding balances due by individuals to the United States. Mr. W. made a variety of remarks on the importance of such an investigation as this, to show what was the real character of the balances reported as due to the United States. A great deal of heart-burning and uneasiness would be saved by a full and fair inquiry into the matter, and an exposition of its merits. Such an inquiry was due to the people, and he knew it would be gratifying to the Executive. He did not believe the money of the nation could be better expended than on such an inquiry, &c.

Mr. MALLARY rose and said he believed that a great part of the House had a real and anxious wish to get to some business which could be concluded at the present session, and, therefore, moved to lay this resolution on the table.

The SPEAKER said the hour allowed for the consideration of original motions had passed, and the resolution would be ordered, of course, to lie on the table; and it was laid on the table accordingly.

MILITARY REGULATIONS.

The bill from the Senate to repeal the fourteenth section of the act to reduce and fix the Military Peace Establishment, (which section establishes General Scott's Regulations for the government of the Army,) was read a third time; and the question being on its passage—

Mr. FLOYD said that this bill ought not to pass without some examination; because the Rules and Regulations which it went to repeal contained some provisions which were not intended to be established by Congress, and were not in the Regulations when they were established by Congress.

The seventy-fifth article of those regulations contained a manifest forgery, which ought to be examined into. He had before him the manuscript Rules, as laid before the Congress previous to their being established. He had also the copy printed from the manuscript for the use of this House, and conforming to it. He had also in his hand the copy promulgated by the War Department. In that copy the seventy-fifth article read as follows: "Article 75. *Transfers*. 1. The transfer of officers will only be made by the War Department, in order, upon the mutual application of the parties, except in extraordinary cases.—See 63d article of war. Nor shall an officer be transferred into a regiment to the prejudice of the rank of any officer thereof. When officers are transferred at their own request, the order for change of station will specify the fact.—See art. 69, par. 81." In the Rules presented to this House, and by it enacted into law, the words in italic, as above, were not to be found. It was a subsequent interpolation and a palpable forgery. He had other objections to urge. There was no situation, he said, in which officers could be placed, in time of peace, in which they did not get their brevet pay, and other emoluments which Congress did not intend they should have. And rumor (which a gentleman from Virginia said the other day was often malignant) had informed him that, when General Brown was attacked with the malady under which he yet labors, application was made by General Scott for the command of the Army, on the ground that he was the oldest Brevet Major General, though the youngest Brigadier, and this too to the exclusion of a man who had risen from the lowest to the highest ranks of the Army, by merit and with fame.

Mr. A. SMYTH explained what, as he understood them, were the facts in this case. The regulations prepared by General Scott were printed, it was true, for the use of the House. General Scott, then in Philadelphia, received one or more copies of the document after it was printed, and went into an examination and correction of errors therein, as well of the press as of the manuscript, and also made certain alterations in the text. He, (Mr. S.), then chairman of the Military Committee, received a copy from him with a few alterations; and, afterwards, through the War Department, another copy, containing considerable alterations. When he came to draw up the bill, which passed into an act, establishing the regulations compiled by Major General Scott for the government of the Army, it was his intention that the last copy received from General Scott, having the advantage of his full corrections, should be the one established. For that purpose, he deposited that copy with the Clerk of the House. He was perfectly convinced that all the corrections to be found in the promulgated order were made anterior to the passage of the act establishing the regulations; and that they were then intended by Congress to be what they have been published by the War Department. He was confident his colleague was mistaken in supposing there had been any subsequent interpolation of them.

Mr. COCKE said that he was one of the Military Committee to whose inspection and consideration was submitted the Regulations compiled by Major General Scott. The Committee requested the chairman of that committee to have the document printed and laid on the tables of the different members. They did not, to the best of his recollection, alter it in any manner. On comparing the seventy-fifth article of the regulations, as published for the use of the Army, by whom he knew not, with that which was before this House when the law was passed, there was a manifest difference. The operation of the alteration in that article had been productive of injustice to the officers of the Army. Under it, Colonel Lindsay had been transferred from the 7th Regiment of Infantry to the 3d Regiment of Artillery, manifestly to the injury of all the officers of the Third Regiment of Artillery. Mr. C. then read the seventy-fifth section from each book, showing the discrepancy between the two.

Mr. ARCHER made a few remarks, not distinctly heard by the reporter, the import of which were, that the accusation thus presented to the House was a serious one, and, as going to affect the character or question the conduct of General Scott, it was proper it should not be hastily passed over. He, therefore, proposed that the bill should lie on the table, with the intimation that, General Scott being now in the city, he would undertake to ascertain and state to the House in what manner these alleged alterations have been made.

Mr. TATNALL said, he was under the impression that the repeal of the 14th section of the act of 1821, suggested by this bill from the Senate, would be perhaps proper and necessary. A slight examination would satisfy any one, that there was an essential difference in several material parts of the work which was distributed to the Army of the United States, under the title of "Rules and Regulations," from the manuscript copy which had been presented under that title to the House at the last session, and which, after having been printed, received the legislative sanction of Congress. The consequence was, that the Army had been subjected to rules, which, from their being without legal sanction, ought to have no binding force whatever. This furnished a reason with him for wishing to repeal the 14th section. He had, however, an additional reason for such a wish. The copy which was distributed among the officers of the Army contained a provision which he trusted this House would never sanction—a provision which would enable the Department of War to trample tyrannically upon the rights of officers, and he trusted this House would never lend its aid to produce such an effect. He alluded to that section which authorized the transfer, from one corps to another, of an officer, even to the prejudice of the corps to which he was transferred. He for one would never sanction any such tyranny. The rights of officers had been, under the act of 1821, but little regarded indeed! He felt warmly on this subject, he acknowledged. He had once belonged to the Army, and he was, therefore, perhaps more sensibly alive to the interests of its

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officers. He, however, thought he might be indulged in speaking warmly on this subject; for it so happened that one of the officers intended to be benefited by the recent nominations to the Senate, was, with the exception of a brother, the nearest relative he had. This consideration, however, would not prevent his saying that the conduct of the Department was tyrannical and oppressive, and that we should disgrace ourselves if we did not, like the Senate, present to it an effectual opposition. The gentleman from Virginia (Mr. SMYTH) had entered into an explanation, with regard to the mistake. Mr. T. totally acquitted Major General Scott of blame or dishonor in the alteration subsequently made in these "rules and regulations." Mr. T. felt confident that no officer of the United States Army would be guilty of any act unbecoming a gentleman, and particularly the high-minded and gallant officer alluded to. He, however, could not but add that, although he might have felt honored by being the author of the first copy presented to Congress (which did not contain the odious section alluded to) he should not deem it an honor to have been the author of the last, particularly after having attained to rank which would place him above the operation of the section objected to. He hoped the House was prepared to pass the bill.

Mr. STEVENSON said, that, during a few moments' absence from the House, the bill under consideration had been taken up, and some remarks made, which he had not heard, but which he understood might be calculated to inculpate the conduct of General Scott in this business. Mr. S. said, that whatever the nature of the charge might be, he felt assured that nothing improper could be brought home to that gallant and distinguished officer. No accusation or insinuation ever ought to be made without affording an opportunity for explanation. Mr. S. knew him well; he had known him from his youth, and he felt justified in assuring the House that if the bill were laid on the table till to-morrow, a satisfactory explanation, as far as General Scott was concerned, would be given. It was due to the high-minded and gallant officer, whose reputation was dear to the country; it was due to the House to suffer the bill to lie till to-morrow, and he moved it accordingly.

Mr. FLOYD again rose. The alleged alteration of regulations after being sanctioned by law was no mistake, he said, as his colleague seemed to think; for the documents were here to establish the contrary. The book, as promulgated, was not that which the law declares shall be established. The interpolation could not be otherwise regarded than as a gross fraud practised upon the country, to the injury of the rights of brave officers of the Army. Those officers, he said, had suffered the blackest injustice by the reduction of the Army, but not from those who had any agency in passing the law for the reduction. Had the reduction of the Army been left to the friends of the law reducing the Army, it would not have been so executed as it had been; and it was not of them, but of those who executed the law, that the officers who were injured had a right to complain.

Mr. ARCHER then, with the sentiments already avowed, moved to lay the bill on the table.

And the bill was laid on the table.

CUMBERLAND ROAD.

The engrossed bill for the preservation and repair of the Cumberland road, was read a third time.

Mr. TAYLOR said, he considered this bill as so important in its character, and as being such a violation of the Constitution, that he felt himself impelled to call for the yeas and nays upon it.

The yeas and nays were thereupon ordered.

Mr. REED, of Maryland, moved to recommit the bill, for the purpose of causing to be stricken out of it the section that authorizes the President of the United States to lessen or increase the rates of the tolls. That was an act of legislation, he said, which it was not competent for the President of the United States to exercise. The motion was supported by the mover, and opposed by Messrs. LITTLE, ROSS, TRIMBLE, and STEWART.

Mr. REED, of Maryland, called for the yeas and nays, which were thereupon ordered; and the question on commitment being taken, it was decided in the negative, yeas 41, nays 115.

The question was then put, Shall the bill pass? and determined in the affirmative—yeas 87, nays 68, as follows:

YEAS—Messrs. Barber of Ohio, Barstow, Baylies, Bayly, Blackledge, Breckenridge, Buchanan, Campbell of New York, Campbell of Ohio, Cassedy, Chambers, Cocke, Condict, Cook, Cushman, Cuthbert, Dane, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Findlay, Fuller, Hardin, Hemphill, Hendricks, Hill, Hubbard, Jackson, J. T. Johnson, J. S. Johnston, Jones of Tennessee, Kent, Kirkland, Leftwich, Little, Long, McCarty, McLane, McSherry, Mallary, Matson, Mercer, Metcalfe, Milnor, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Neale, Nelson of Maryland, New, Newton, Patterson of Pennsylvania, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reid of Georgia, Rich, Ross, Russ, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, W. Smith, J. S. Smith, Spencer, Stewart, Stoddard, Swearingen, Tod, Tomlinson, Trimble, Upham, Vance, Van Rensselaer, Walker, Walworth, Williams of Virginia, Woodson, and Wright.

NAYS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Bassett, Blair, Borland, Brown, Burton, Butler, Cambreleng, Cannon, Colden, Conkling, Conner, Crafts, Crudup, Edwards of North Carolina, Farrelly, Floyd, Gebhard, Gilmer, Gist, Gorham, Gross, Harvey, Hawks, Holcombe, Jones of Virginia, Keyes, Lathrop, Lincoln, Litchfield, Matlack, Matlocks, Mitchell of Pennsylvania, Murray, Nelson of Massachusetts, Nelson of Virginia, Overstreet, Patterson of New York, Phillips, Pitcher, Reed of Massachusetts, Reed of Maryland, Rhea, Rogers, Ruggles, Arthur Smith, Alexander Smyth, Sterling of Connecticut, Sterling of New York, Stevenson, Swan, Tatnall, Taylor, Thompson, Tracy, Tucker of Virginia, Tucker of South Carolina, Van Wyck, White, Williams of North Carolina, Williamson, Wilson, Wood, and Woodcock,

So the bill was passed, and sent to the Senate for concurrence.

H. OF R.

Compensation Bill.

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INSOLVENT DEBTORS, &c.

An engrossed bill for the relief of certain insolvent debtors was read a third time; and, after a few observations by Mr. MALLARY and Mr. A. SMYTH,

Mr. WOODCOCK moved to commit the bill to the Committee on the Judiciary, for the purpose of incorporating into it a proviso, the purport of which should be, that the obtaining of the benefit of the act should have effect upon no debts except such as were contracted in the District of Columbia.

Mr. A. SMYTH remarked, that the object of the bill was to extend the benefit to strangers which is now confined to those citizens of the District who have resided in it twelve months. It was not intended to alter the character of the present law.

Mr. WOODCOCK replied, and said that he was willing to go as far as any man for the relief of an insolvent debtor, but he thought the effect of it, as it now stands, would be to create frauds, &c.

Mr. SMYTH rejoined, and the question of commitment being taken, it was lost, and the bill was passed.

An engrossed bill, in addition to the act for the prompt settlement of the public accounts, was read a third time, and passed.

On motion of Mr. RICH, the title of the bill was altered so as to read, "An act to provide for a prompt settlement of the accounts therein mentioned, and for the punishment of the crime of perjury in certain cases."

An engrossed bill to authorize the appointment of deputy collectors of the customs, was read a third time, and, after a few explanatory observations, by Mr. TOMLINSON, in answer to an inquiry of Mr. WOOD, the bill was passed.

An engrossed bill, explanatory of the act entitled an act authorizing the settlement of the accounts between the United States and Richard O'Brien, late Consul of the United States at Algiers, was read a third time, and passed.

COMPENSATION BILL.

The bill to reduce the compensation of the members, of Congress, &c. was then taken up, and the question recurred upon the amendment offered by Mr. ROCHESTER to the proposition of Mr. ALEXANDER SMYTH to recommit the bill with instructions to report the same in such a manner as to reduce the compensation of the officers of the Government twenty per cent.

Mr. TOP called for the previous question, but the call was not sustained by the House.

Mr. BAYLY occupied the floor for some time, and gave notice, in conclusion, that if the present propositions before the House should be rejected, he would move the following:

"That they bring in a bill to allow the representatives of each State in Congress the same per diem, and the same itinerant charges, to which the representatives of the most numerous branch of their State Legislatures are entitled."

Mr. BAYLY observed that every one who had spoken in favor of the bill had called it a link in

the chain of retrenchment. Retrenchment! Never, said Mr. B., was there a word so good but that, by being bandied about, it would wear out, and the people would become sick of it. And such, he feared, would be the fate of this famous word retrenchment! But this bill, Mr. B. contended, was no link in the chain. It had no connexion with the chain. It was separate by itself. In the fourteenth Congress a law passed giving fifteen hundred dollars to the members for their wages during each session, besides their itinerant charges. The spirit of the nation was roused—and why? It was not the sum that caused the excitement; but it was the manner of receiving it—a salary. I believe, said Mr. B., that the chairman of the Committee of Retrenchment (Mr. HARDIN) voted for the bill, and I think they turned him out of Congress on account of it. At any rate, I know there was great tomahawking and scalping in Kentucky about the passage of that law. Now, I esteem that gentleman very much, said Mr. B., and should be very sorry if he should now retrench himself out again. It is true, he got back, and as he (Mr. B.) considered him one of the most able and useful members of the House, he should be glad to retain him here. Since the fourteenth Congress we have paid fifty or sixty millions of the national debt. At that time it amounted to about one hundred and fifty millions, and the debt was never greater than when Congress voted the salary compensation. But the people revolt at new principles of any kind. Mr. B. had never heard of any complaint of the existing law, except from Rhode Island. The Legislature of that State, said Mr. B., in the year 1819 or 1820, directed their Senators, and requested their Representatives, to obtain a reduction of the wages to six dollars, or two dollars, I do not recollect which. Accordingly, one of the representatives of that State brought in a bill pursuant to the request; but I dare say it was as much against his will then as it now is against that of the chairman of the Committee of Retrenchment. And what was the consequence? One half of the whole of that delegation died within three weeks after it! Well, then, it was brought forward in the Senate. And what was the consequence there? One half of the Senators from that State died immediately. Now, it would be lamentable, indeed, if half of the Kentucky representation should die off in consequence of this bill. Mr. B. had a great personal regard for them, and he therefore hoped that the bill would not pass. He thought, if the House was determined to act on the subject, it was better to recur to first principles. With this view, should the proposition of the gentleman from Virginia (Mr. SMYTH) be rejected, he should offer one in lieu of it, the purport of which was, that each member should receive for wages and itinerant charges the same allowance which the members of the most numerous branch of their respective Legislatures are entitled to receive.

Under the old confederation each State paid its own representatives, or delegates, as they were then called. The Constitution now provides that they shall be paid out of the public Federal Treas-

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ury. Of course the House could not pay the friends of this bill, if it has any, out of their own depreciated paper. The State of Virginia, under the old confederation, paid their delegates eight dollars good money per day. The State of South Carolina paid them what was equivalent to about seventeen dollars per day. If this course was taken, each member might go home with a quiet conscience, and hear no clamor from the members of their State Legislatures—and those who received only two dollars would, perhaps, save half of that.

This is the sort of economy, sir, said Mr. B. that I should like the Committee of Retrenchment for. I heard my friend from Virginia (Mr. MERCER,) the other day—and I will call him my friend, for I have known him long; I don't call him my friend in that sense in which many gentlemen use that word on this floor; they will speak of their friend from such a State, and from such a State, when they never saw or heard of them before this session, and hardly know their names, nor care any thing about them; now, I hope that word will not be so abused any longer in this House, but when I speak of my friend from Virginia, I mean as I say; we have been friends ever since we went to school together in our youthful days; my friend said that the Fourteenth Congress would not suffer by comparison with any Congress that had been held since the war, or that the present House would gain nothing by a comparison with that Congress. What did that Congress do immediately after the war? It voted to themselves \$1,500, besides six dollars for every twenty miles' travel, and that at a time when the Government was indebted at least \$150,000,000, funded and floating debt. The Fifteenth Congress, in the session which commenced in December, 1817, fixed the compensation of members at eight dollars per day during their attendance; and now the Government owes but \$93,000,000. His friend (Mr. MERCER) said he did not wish, by giving a large compensation, to draw able men away from the State Legislatures. His (Mr. B.'s) proposition would avoid any difficulty in that respect; for they may come to this Capitol, or to the State Legislatures, as they please, and for the same compensation. But this is the very thing, said Mr. B. that I want. I wish to draw men of the first talents into the National Legislature, to brace it up against the States. Twenty-four States—all drawing against the Union! Fearful odds! He hoped we should always have the best talents in the country brought into the National Legislature. For his part, he respected State sovereignty. That was the proper term. He considered them as possessing a higher character than another gentleman from Virginia (Mr. STEVENSON) had given them, who considered them as corporations. But he (Mr. MERCER) was at war with himself, when he supposes that men of the greatest talents prefer coming to Congress on account of the greater pay, and at the same time says that there are three or four candidates in each county in Virginia for the State Legislature, where the pay is but three dollars. Some gentlemen make

more money in one week after they get home than they save during the whole session.

Money is not the object for which many men come to Congress. They have more noble views—the approbation of their country and constituents; for instance, the chairman of the Committee on Manufactures, who is, besides his other great powers, so eminently gifted with that of oratory. Consider the great labor and learning bestowed upon the report on that subject, and say that the paltry eight dollars was his inducement! No, it was not; but he would consider himself amply rewarded if he could succeed in his measures, in hearing his name resounded over pots of beer, amidst the sooty walls of Pittsburg.

I live, said Mr. B. in the country, and shall not be a candidate for the next Congress. But, after pocketing eight dollars for himself, he did not feel disposed to make a law compelling his successors to take six. Let them fix their own compensation.

A gentleman from Maine (Mr. WILLIAMSON) had proposed to circumscribe those who were in favor of the bill. But, from the votes that had been taken on the question, he (Mr. B.) thought that the bill had but few sincere friends, and it would be enough to circumscribe the committee—they would be as much as the gentleman could conveniently handle.

The principle of limiting the clerks, &c., to \$1000, as proposed by the gentleman from New York (Mr. ROCHESTER,) was precisely the same in principle with the \$1,500 compensation bill; and he did not believe there was scarcely a member of the House who would say in his closet that the present compensation was too much. If indeed, we could eat, drink a glass of grog, smoke a cigar, and sleep, all at the same time, as the gentleman from Tennessee (Mr. RHEA) says we who live upon the seaboard can, there would, perhaps, be some reason for reducing the itinerary charges. Our Government, Mr. B. said, was established upon republican principles. It was an example of the practicability of self-government, and he did not believe in the republicanism of any radical system, that consisted only in tearing down. I am in favor of retrenchment, said Mr. B., but we are called upon to strike off \$2—and from whom? From ourselves! The President of the United States, Mr. B. contended, was as much the representative of the people as the members of the House of Representatives. If so, why not as well cut down the salary of the President? If gentlemen thought this measure would enhance them in the eyes of their constituents, he believed they would find themselves much mistaken. He believed the people were satisfied as the compensations now stood. The salaries of the clerks were raised when the \$1500 law was passed, and when that was repealed those salaries remained untouched. Mr. B. adverted to the remark of the gentleman from New York (Mr. CAMBRELENG,) saying that the former raising of the salaries was a fraud on the Government, and observed, that the Congress which passed that law were honest and honorable men. [He was proceeding at some length, when the SPEAKER

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Military Appropriations.

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expressed an opinion that he was taking too wide a range of debate, on which Mr. B. concluded his remarks.]

Mr. KENT said, it was with reluctance he troubled the House at so late a stage of the debate, but he was decidedly opposed to the amendment offered by the gentleman from Virginia, which went to reduce, at one indiscriminate sweep, the salaries of all the officers of Government. A proposition of that kind, involved the most important interests of the country, and could only be arranged and matured properly, after the most deliberate reflection, which could not be given it at this time, and could only be obtained by postponing the gentleman's amendment until the commencement of the next session. But this was not the case in relation to a reduction of our own pay. There was an evident propriety in acting on the bill for that purpose at the present moment. If we did not, and it was postponed to the next session, what would be the situation of the House? Gentlemen would come here entitled to draw their mileage and pay under the present law. The House could pass no law having a retrospective operation; and, if it was determined to pass one at all, it might be bandied about from one committee to another, and from House to House, till the close of the session, and might be made the pretext for not acting on the subject finally.

Mr. K. had never heard the reduction of the per diem mentioned in his district, and neither did he think his constituents regard whether it was six or eight dollars; but whenever a respectable committee of the House had said it was necessary to reduce it, to avoid embarrassment to the Treasury, he should not hesitate to vote for its reduction. He was surprised to hear gentlemen complain of not being able to serve in Congress for six dollars per day. He recognised in the House many gentlemen with whom he had served several long and perplexing sessions, for that sum, and he believed that they had attended as punctually, and discharged their duties to the nation as effectually, as they had done for any subsequent sum at which the per diem had been fixed. If the House ever intended to reduce their per diem, this was the preferable time.

The question then recurred upon Mr. ROCHESTER's proposition, which was so modified by the mover, as to provide that no clerk's salary shall be reduced below \$800. After a few remarks by Messrs. TUCKER, of Virginia, and ROCHESTER, the question was taken, and the motion prevailed—yeas 66, nays 61.

Mr. Cook submitted the following addition to the contemplated instructions:

SEC. 6. *And be it further enacted*, That no member of Congress shall, directly or indirectly, himself, or by any other person whatsoever in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy, in the whole or in part, any contract, agreement, agency, trust, or employment of any kind whatsoever under the United States, by virtue of any appointment or commission received from, or contract, agreement, engagement, or undertaking, made or entered into with any Executive officer of the

United States, either in writing or otherwise: nor shall any Executive officer, as aforesaid, either in writing or otherwise, enter into any such contract, agreement, or understanding, with any member of Congress, or appoint any member of Congress to execute or perform any trust, agency, or commission for, and in behalf of the United States, of any kind whatsoever. And every such person offending against the provisions of this section, if a member of Congress, shall, upon conviction thereof, be liable to all the penalties prescribed in the first section of the act, entitled "An act regulating public contracts," approved April 21, 1808. And if an Executive officer of the United States he shall, upon conviction thereof, be liable to all the penalties prescribed in the fourth section of the said act. *Provided, however*, That nothing herein contained shall be so construed as to repeal or annul the second section of the said recited act, or to prevent any member of Congress from performing any trust, agency, or duty of any kind whatsoever, for and in behalf of the United States, without receiving any compensation therefor.

The addition proposed by Mr. COOK was opposed by Messrs. F. JONES and A. SMYTH, and supported by the mover, but ultimately withdrawn.

The question then recurred upon the amended proposition of Mr. SMYTH, which was put without further debate, and decided in the affirmative—yeas 69, nays 61.

The question then recurred upon the recommitment with the said instructions, upon which Mr. STODDARD called for the yeas and nays, which were thereupon ordered.

The recommitment was opposed by Messrs. MONTGOMERY and HUBBARD; when

Mr. WRIGHT submitted an addition to the instructions which had been agreed to; the purport of which was to provide that the rate of mileage be made at thirty instead of twenty miles per day for the members, &c.

Before the question was put, Mr. SMITH, of Maryland, stated that he had moved that this bill be laid on the table at an early hour this morning, but had consented to waive it on being told that it would be disposed of in a short time. But it was now evident that it was leading to a long discussion, and it was indispensably necessary that the military appropriation bill should be passed, for reasons which he stated to the House; he, therefore, renewed the motion that it be laid on the table. The question was then put and carried—yeas 72, noes 71.

MILITARY APPROPRIATIONS.

The House then resolved itself into a Committee of the Whole on the state of the Union, on the bill making further appropriations for the military service of the United States for the year 1822.

Mr. SMITH, of Maryland, (chairman of the Committee of Ways and Means,) moved an amendment to the bill so as to appropriate \$50,000 for the compensation due the citizens of Georgia by the Creek nation.

Mr. GILMER moved to amend the amendment by striking out the sum of \$50,000, and to insert in lieu thereof the sum of \$100,000, and he sup-

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ported the motion in a speech of considerable length.

Mr. COCKE opposed the amendment.

Mr. RANKIN suggested, that, by the rules of the House, it was not competent to incorporate into an appropriation for other objects, an appropriation for carrying into effect treaties.

Some discussion ensued upon the construction of the rule, in which Messrs. RANKIN, SMITH, of Maryland, H. NELSON, CUTHBERT, REID, and RHEA, took part, when the question was taken, and the motion to fill the blank with \$100,000 was lost and that for 50,000 prevailed.

Mr. GILMER submitted the following :

"For the purpose of holding treaties with the Cherokee and Creek tribes of Indians, for the extinguishment of the Indian title to all the lands within the State of Georgia, pursuant to the fourth section of the first article of the agreement and cession concluded between the United States and the State of Georgia on 24th April, 1802, the sum of \$30,000."

The motion was supported at length by Mr. GILMER, who was followed on the same side by

Mr. RHEA, who moved to amend the amendment by inserting the words "and Tennessee" after the word "Georgia." He said his object was, that the treaty intended, by the appropriation asked for, might be to extinguish the Cherokee claim for lands, not only for what remained in Georgia, but also to extinguish the claim of the Cherokee Indians, for the residue of land in Tennessee, by them claimed. He observed, that a small portion of land in East Tennessee was yet encumbered with that Indian claim—that it was bounded by the Tennessee river, Highwassee river, and the boundary line between Tennessee and Georgia—and one treaty would answer the purpose as well as more, and thereby thirty thousand dollars was sufficient. The Cherokee claim covered a considerable quantity of land in Georgia—and, if that claim for that land only was extinguished, little land would remain to the Cherokees, and that lay in Tennessee—that the United States were equally bound to extinguish the Cherokee claim for land in Tennessee as in Georgia; the cession act of North Carolina is to that effect. If the intended treaty be so provided for, that it will extinguish the claim of the Cherokees to the land in Tennessee as well as in Georgia, the settlement of Georgia and Tennessee will be connected, otherwise not. Mr. R. said, that on principles of sound policy and economy, the Cherokee claim for land in Georgia and in Tennessee, ought to be done away. The sovereignty of Tennessee and of Georgia ought to be extended over the land now encumbered with Cherokee claims in said States respectively. The Cherokee Indians now residing in Tennessee are not many; and they, and the other Cherokees residing on lands in Georgia, ought to be moved, (that is, they who may be willing) over the river Mississippi, where the great mass of that nation now is. I am not, said Mr. R., in favor of disturbing any establishment for education included within the limits of the lands in question; neither do I desire to force away any individual of that nation who may choose to continue where he is;

but I desire that the treaty may be; that the sovereignty of Tennessee may be extended over that country within its limits; that establishments for education may remain undisturbed; and that sufficient lands may be laid off for such Cherokees as may desire to remain; and that the residue of the land may be inhabited by citizens, who will add to the number of citizens in Tennessee, and to the strength of the Southern country.

The amendment was supported by the mover, and opposed by Messrs. COCKE, TATNALL, and REID, who also supported the amendment which was offered, when the question was taken, and the amendment was negatived, and the appropriation as proposed by Mr. GILMER was agreed to.

Mr. COCKE moved to add a proviso to preclude all persons from receiving any moneys under that act, who were in arrears to the Government. The question was put and carried.

Mr. FLOYD moved to strike out the sum of \$125,000, which had been inserted for the contingent expenses of the War Department, and in lieu thereof to insert the following:

For pay allowed by law to Indian Agents	- \$22,300
For presents to Indians, allowed by the law of 1802	- - - - - 15,000
For contingent expenses of the Indian Department	- - - - - 40,000

The amendment was agreed to.

Mr. BALDWIN moved to insert an appropriation of \$5,000 for the preservation of ammunition, which was agreed to, and at twenty minutes before six, the Committee rose and reported the bill to the House, as amended, and then the House adjourned.

TUESDAY, April 30.

Mr. EUSTIS, from the Committee on Military Affairs, to whom was referred a bill from the Senate to select a site for the establishment of a national armory on the Western waters, reported the same without amendment, with a recommendation that the same be postponed to the next session; and, on his motion, the bill was ordered to lie on the table.

The resolution yesterday, moved by Mr. DWIGHT, for instituting a committee, with power to send for persons and papers, and to report at the next session on the subject of the decisions of the Second Comptroller of the Treasury, was again taken up.

Mr. WRIGHT withdrew the amendment which he yesterday proposed to it; and,

The question being taken on agreeing to the original motion, it was decided in the negative. So the resolution was rejected.

Mr. LINCOLN submitted the following resolution, viz:

Resolved, That the President of the United States be requested to cause to be deposited in the library of Congress the originals or copies of all such reports, memoirs, or documents, not heretofore published, as have been made by public officers, Indian agents, private individuals, or exploring parties, to the Executive department of the Government; together with any

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maps, drawings, or charts, or copies of the same, which, in his opinion, it may be consistent with the public service to have there deposited.

The resolution was ordered to lie on the table.

Mr. REED, of Maryland, moved that the House do come to the following resolutions :

1. *Resolved*, That the Secretaries of the State, Treasury, War, and Navy Departments, and the Postmaster General, be, and they are hereby, directed to lay before this House, within ten days after the commencement of the next session of Congress, a report, showing the time when was made the last statement, upon which a balance was found to be due of the accounts of the officers or agents, foreign and domestic, collecting or disbursing the public money, under the authority of their respective departments, who have held their several appointments for the last three years; how such balances were suffered to accrue, what steps have been taken to recover it, the sufficiency of the principal and securities, and whether any, and who, of such agents or officers, have been continued in the public service after such balance was stated to be due by them.

2. *Resolved*, That the Second, Third, Fourth, and Fifth Auditors, be, and they are hereby, directed to lay before this House, within ten days after the commencement of the next session of Congress, an account showing the amount of moneys unaudited at the period when their several offices were established; the amount annually appropriated by Congress since the establishment of their respective offices, which it was their duty to have audited, and what amount has been actually audited by them, annually, carrying the balance of one year to the account of the succeeding year.

3. *Resolved*, That it is hereby made the duty of the several Auditors of the Treasury to render to the Secretaries of their respective Departments a semi-annual statement, commencing from the first day of the present year, showing the balance, if any, due by any and every officer, whose duty it may be to collect or disburse the public moneys.

4. *Resolved*, That it is hereby made the duty of the Secretaries of State, Treasury, War, and Navy Departments, to lay before this House, within ten days after the commencement of their annual session, a list of the balances which may appear to be due upon the last semi-annual statement which may be rendered to them respectively.

5. *Resolved*, That it is hereby made the duty of the Postmaster General to lay before this House, within ten days after the commencement of their annual session, a semi-annual statement, showing the balance, if any, due by each and every deputy postmaster.

The resolutions were ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to alter the times of holding the district court in the district of New Jersey;" in which bill they request the concurrence of this House.

A Message was received from the PRESIDENT OF THE UNITED STATES, which was read, and is as follows :

To the House of Representatives of the United States :

I transmit to the House of Representatives a report from the Secretary of State, in pursuance of their resolution of the 18th instant, "requesting to be fur-

nished with a copy of the judicial proceedings in the United States court for the district of Louisiana, in the case of the French slave ship *La Pensee*."

JAMES MONROE.

WASHINGTON, April 29, 1822.

The Message was ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting a statement of the amount of money paid as salaries, outfits, and contingent expenses to foreign Ministers, since the year 1800, and the amount paid to each; in obedience to a resolution of the House of Representatives of the 8th instant: which letter and statement was ordered to lie on the table.

UNCURRENT BANK NOTES.

The SPEAKER laid before the House a report from the Secretary of the Treasury, communicating such additional evidence as is in the possession of the Treasury Department, tending to show that the uncurrent notes received from the Banks of Edwardsville, Tombigbee, and Missouri, had been deposited in those banks before the date of the arrangements by which they became responsible in cash, for all bank notes deposited with them by the Receivers of Public Money, together with all the additional returns and correspondence required by the resolution of the 12th of March last, which report was read, and ordered to lie on the table. The report is as follows :

TREASURY DEPARTMENT, April 27, 1822.

SIR : In obedience to a resolution of the House of Representatives of the 12th March last, I have the honor to transmit such evidence as is in the possession of the department tending to show that the uncurrent notes received from the Banks of Edwardsville, Tombigbee, and Missouri, had been deposited in those banks before the date of the arrangement, by which they became responsible in cash for all bank notes deposited with them by the receivers of public money, together with all the additional returns and correspondence required by the resolution, except two letters from the receiver at St. Louis, which are of a confidential nature.

In the documents appended to the report from this department of the 14th of February, will be found the terms upon which the Bank of Missouri became the depository of the public money. The bank most clearly was not by that arrangement responsible for the solvency of banks whose notes might be deposited in it to the credit of the Treasurer. This arrangement continued until the 9th of August, 1819, when the president of the bank, by letter, accepted the arrangement proposed in my letter of the 23d of June of the same year. But in that letter the bank expressly refuses to be responsible for the notes of any bank not therein enumerated, and none of the banks whose notes formed a part of the uncurrent money received from the Bank of Missouri are included in that enumeration. By the same letter, it appears that sums in the notes of those banks to a larger amount than was received in uncurrent money from that bank, were, at the date of the letter, in the possession of the bank. If there is any exception to this declaration, it is in relation to the State Bank of North Carolina. The president in that let-

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ter proposes to deposite in the Branch Bank at Fayetteville \$50,000 in such paper of that State and of South Carolina and Georgia as was authorized to be received. The whole sum transferred was \$42,000. The remainder was understood to have been notes of South Carolina and Georgia. The evidence that the whole of the uncurrent notes received from the Bank of Missouri had been received on deposit by it before the date of that letter, and, consequently, before the commencement of the second arrangement, is believed to be entirely satisfactory.

Before the 20th of August, 1820, the Bank of Tombigbee was not bound to transfer the public funds deposited in it. On that day a new arrangement was tendered to it, and a permanent deposit was offered as an inducement to assume that obligation. On the 8th of September following the proposition was accepted. By a reference to a statement annexed to a letter of the president of the bank, bearing date the 13th August, 1819, it will be seen that there had been deposited in the bank the sum of \$15,000 in notes of the State Bank of North Carolina. About this period the latter bank stopped payment. The amount received from the bank in the uncurrent notes of the State Bank of North Carolina has been stated at \$15,311. The sum received after the date of the letter was therefore very inconsiderable.

By a reference to the report, the terms on which the public money was originally deposited in the Bank of Edwardsville will be found. The obligation to transfer the public money, and compensation for such service, by means of a permanent deposit, are not among them; nor had the bank the right of selecting the banks, the notes of which were to be received in deposit. In this case, as in the first arrangement with the Bank of Tombigbee, the money deposited was to be entered to the credit of the Treasurer as cash. This term was used in opposition to the term special deposit, and was not intended to subject the bank to the payment of specie for notes which were not convertible into specie. It was not understood by either of the parties that the bank was responsible for the credit of the banks whose notes were deposited in it. The letter of the president of the bank, of April 18, 1820, and the letter of the same officer of January 7, 1820, to the honorable Ninian Edwards, then a director of the bank, by whom it was transmitted to this department, and herewith communicated, explain most fully the understanding of the directors of the bank that no such responsibility was intended to be incurred by them.

By the statements of the bank, herewith communicated, it appears that on the 30th of November, 1819, there was on deposit to the credit of the Treasurer \$45,475 04, and that the bank had then in its possession \$31,437 in the notes of banks receivable at the land offices. There is no evidence in the department showing the amount of Kentucky and Tennessee notes comprehended in that sum. In December of the same year there were deposited by the receiver at Edwardsville \$6,063 in Kentucky notes, and \$3,000 in notes of the banks of Tennessee; and in January, 1820, the receiver at Kaskaskia deposited \$6,250 in Kentucky notes, and \$2,760 in notes of the banks of Tennessee. These several sums amount to \$17,073. If the same proportion of the notes of the banks of Kentucky and Tennessee were comprehended in the sum of \$31,437, as in the deposits made in

the months of December, 1819, and January, 1820, there would be of Kentucky notes \$4,430, and of Tennessee notes \$2,200. These sums, added to the above sum of \$17,073, make the aggregate amount of \$23,703. But it has been ascertained that in the month of December, 1819, the bank paid, in part satisfaction of a Treasury draft, \$4,880 in Kentucky notes. This sum being deducted from the amount last mentioned, leaves of uncurrent money in the possession of the bank, on the 3d of January, 1820, the sum of \$18,823. The sum received from the bank in uncurrent notes was \$18,562. In my letter of February 2d, 1821, to the president of the Bank of Edwardsville, authority was given to place to the credit of the Treasurer notes of the banks of Kentucky and Tennessee to the amount of \$20,000, the evidence in the possession of the department that that amount had been received on account of the Treasury before the failure of those banks being at that time considered satisfactory. I have had no reason since to change that opinion. The evidence, however, is respectfully submitted to the House. I remain, with respect, &c.

WM. H. CRAWFORD.

Hon. P. P. BARBOUR, *Speaker House of Reps.*

[The documents accompanying the above report, being voluminous, are omitted.]

REPORT ON THE FINANCES.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred so much of the President's Message at the commencement of the session as relates to the finances, made a detailed report thereon; which was ordered to lie on the table. The report is as follows:

The Committee of Ways and Means, to which was referred so much of the President's Message, at the commencement of the session, as relates to the finances, respectfully submit the following report:

The total net receipts into the Treasury, during the year 1821, amounted to the sum of \$19,588,340 01

To wit:

From customs	-	-	-	\$13,004,447 15
Arrearages of the old direct tax	-	-	-	3,661 25
Do. of new do.	-	-	-	25,687 80
Do. of new internal revenue	-	-	-	69,027 63
Public lands	-	-	-	1,212,966 46
Miscellaneous	-	-	-	152,913 43
Dividend bank stock	-	-	-	105,000 00
Repayments	-	-	-	14,636 29
Loan of five millions	-	-	-	5,000,000 00

\$19,588,340 01

The total expenditures paid from the Treasury during the year 1821, amounted to \$19,094,895 85.

To wit:

For Civil list	-	-	-	1,118,483 17
Miscellaneous	-	-	-	911,553 91
Foreign intercourse	-	-	-	212,450 87
Military Establishment	-	-	-	5,163,071 22
Naval Establishment	-	-	-	3,322,243 06
Public debt	-	-	-	8,367,093 62

\$19,094,895 85

State of the Treasury, Public Revenue, Appropriations actually made for the service of the year 1822, and of the Public Debt.

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Report on the Finances.

APRIL, 1822.

First—The State of the Treasury.

Amount of money in the Treasury on the 1st day of January, 1822, - - -	\$1,673,575 77
From which deduct debts due by banks, which will not be available during the present year - - -	800,000 00
Leaving, of available funds, in the Treasury, on the 1st January past	<u>\$873,575 77</u>

Second—The Revenue for 1822.

Customs, as estimated in the annual report of the Secretary of the Treasury - - -	14,000,000 00
Excess over that estimate, agreeably to a letter from the Secretary to the Committee of Ways and Means, dated 10th April - - -	500,000 00
Public lands, per annual report - - -	1,600,000 00
Bank dividends - - -	350,000 00
Arrears of direct tax and internal duties - - -	75,000 00
Money recovered out of advances made in the War Department, before 1st July, 1815 - - -	60,000 00
Incidental receipts - - -	25,000 00
Estimated amount of available funds for the service of 1822 - - -	<u>\$16,610,000 00</u>

Third—Amount of the several appropriations for the service of the year 1822.

1. Permanent appropriations, viz :	
Reimbursement of the principal of deferred stock, and interest of the public debt - - -	\$5,722,857
Gradual increase of the Navy* - - -	200,000
Arming the militia - - -	200,000
Indian annuities - - -	168,150
Indian trading houses - - -	19,000
Civilization of Indians - - -	10,000
	<u>\$6,320,000</u>

2. Temporary, agreeably to the several appropriation laws, passed for the service of the year 1822, viz :

For the Navy - - -	\$2,284,911
For the Military service - - -	5,318,770
Civil Department - - -	1,565,409
Public Buildings - - -	123,300
Private Claims, estimated at - - -	200,000
Missions to South America - - -	100,000
	<u>9,592,390</u>

Total of authorized expenditures for the year 1822 - - - \$15,912,390

Fourth—The Public Debt.

The total amount of the Public Debt on the 1st day of January, 1822, was - - -	\$93,423,215 33
6 per cent. of 1812 - - -	\$8,855,981 83
7 per cent. of 1812 - - -	8,606,355 27
Redeemable in 1825 - - -	\$17,462,337 10
6 per cent. of 1813, (redeemable in 1826,) - - -	22,357,368 84

*Of the annual appropriation of \$500,000 for the gradual increase of the Navy, only \$200,000 are required for the service of the present year.

6 per cent. of 1814, (redeemable in 1827,) - - -	13,011,437 63
6 per cent. of 1815, and funded Treasury notes (redeemable in 1828,) - - -	10,954,994 17
	<u>63,786,137 74</u>

6 per cent. deferred stock - - -	1,783,148 38
6 per cent. of 1796 - - -	80,000 00
6 per cent. of 1820 - - -	2,000,000 00
5 per cent. of 1820 - - -	999,999 13
5 per cent. of 1821 - - -	4,735,296 30
5 per cent. subscription to the Bank - - -	7,000,000 00
3 per cent. - - -	13,295,956 04
Louisiana stock, not applied for on 30th September last - - -	5,558 15
	<u>\$29,799,958 00</u>

Amount paid after the 30th September, for Louisiana stock and principal of the deferred stock - - -	262,880 41
	<u>\$29,637,077 59</u>

In the report of the Committee of Ways and Means, relative to the exchange of five per cent. for six and seven per cent. stock, a mistake was made in stating that the debt would, (except the three per cents.,) be paid off in 1833. It ought to have been stated in 1835. The error is presumed to have arisen from the figure 5 being mistaken for 3. The exchanged stock for the seven per cent. is, by the bill, payable in 1834, which proves the error.

By the operation of the present Sinking Fund of ten millions, it has been shown, by a former report, that, should the exchange of stock be effected, the stock contemplated, amounting to \$63,786,137 74, will be extinguished in the year 1834, except the sum of \$1,952.

The Commissioners of the Sinking Fund will be charged with the payment of that amount in the year 1835, viz : - - - \$1,952,000 00

And with the payment of the following sums :

Five per cent. stocks of 1820 - - -	999,999 13
Five per cent. stocks of 1821 - - -	4,735,296 30

Total to be paid in 1835 - - - \$7,687,295 43

On the 1st of July, 1824, the deferred debt will be paid off by the operation of the present Sinking Fund. During the present year the following stocks will be paid off : six per cents. of 1796, \$80,000, and the small remnant of the Louisiana stock ; and, during the years 1822, 1823, and 1824, it is expected by the Secretary of the Treasury, (if no unforeseen expenditures shall occur,) that the six per cent. loan of 1820, of two millions will be paid off. There will then remain (3 per cents. excepted) only the seven million subscription to the Bank, which is balanced by United States Bank stock to a similar amount, and can scarcely be considered as a debt. If, however, Congress should reduce the amount of the Sinking Fund to eight millions, which your committee recommend, then the extinguishment of the debt will be prolonged four years.

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Report on the Finances.

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The state of the Finances.

The amount of appropriations for the service of the year 1821, which will be required subsequent to the 1st of January, 1822*	\$1,235,921 71
To meet which there was in the Treasury on that day, of available funds, the sum of	873,575 77
Being an actual deficit, in case all the sums appropriated for the service of 1821 had been demanded, of	\$362,347 94
Amount of authorized expenditure for the year 1822	15,912,397 00
Total	\$16,274,744 94
Amount of receipts estimated during the same year	16,610,000 00
Surplus of receipts over the expenditures of 1822	\$325,255 06
Add thereto repayments from the Treasurer, as agent of the War and Navy Departments, under the provisions of the act of 1820, and which consequently increases the means of the Treasury to that amount, the sum of	378,293 01
Surplus estimated to be in the Treasury on the 31st December, 1822	\$713,548 07

The amount of duty bonds taken in 1821, and which will become payable in 1822, may, agreeably to the information received from the Secretary of the Treasury, be stated at fifteen millions. The collection from the bonds in suit, and which makes no part of the above sum, will, it is presumed by the Secretary, be equal to the sums not paid of the above when due. The tonnage duties and the payments made upon duty bonds taken during the first six months of this year, would in ordinary times be equal to the expense of collection, and to the payment of the debentures which are chargeable on the revenue. This would give a net revenue from the customs of fifteen millions; but, as it is probable that the re-exportation for benefit of drawback will be increased the present year, on account of the almost total cessation of the civil war in Spanish America, the committee have deemed it safer to state the receipts of the present year at fourteen millions five hundred thousand dollars, although they think it may amount to fifteen millions.

The committee submit the following estimate for the year 1823:

Receipts bottomed on those of 1822	\$16,610,000 00
Expenditures bottomed on the appropriations actually made for the service of the year 1822, to wit:	
Permanent appropriations	†\$6,620,007 00
Temporary	9,592,390 00
Making	\$16,112,397 00

* The sum of \$1,117,029 22, being a part of the sum stated by the Secretary of the Treasury as the balance of appropriations chargeable upon the revenue of 1821 having been reappropriated, the above balance of \$1,235,923 71 only remains of the appropriations of 1821.

† There will be required, on account of the permanent appropriation for the gradual increase of the Navy, \$300,000 more in 1823 than in the preceding year.

From which may be deducted the following items, which will not be required for the service of 1823:

Deficit in Revolutionary pensions	\$451,536
Deficit in Quartermaster's department	76,000
Deficit in Indian department	70,000
Arrearages prior to the 1st of July, 1817	90,000
Outfit to missions to South American nations	32,000
Difference in expenditures of the present and succeeding sessions of the Legislature	166,812
	886,348 00
Leaving	\$15,326,049 00

Which amount, being deducted from the estimated receipts for 1823, as above, of

Leaves: \$1,283,951 00

To which add the surplus estimated to be in the Treasury on the 31st of December, 1822

713,548 07

Amount estimated as a surplus in the Treasury on the 31st of December, 1823, and applicable to the expenses of 1824

\$1,997,499 07

The committee submit the preceding estimate for the year 1823, and they feel a well-founded confidence that it will be verified by the result. But it is bottomed on no certainty; it is an estimate, and who can estimate with precision a revenue mainly arising on duties on imports, subject to the winds and the waves, to the caprice of commerce, to the merchants making a greater or less re-exportation, to the want of punctuality in payment of bonds when due, and to other events that no human being can foresee? Has any Secretary of the Treasury, since the commencement of the Government, been accurate in his estimates of the revenue? No one has, and no one ever can. The present Secretary has been nearer to the result than his immediate predecessors, as appears by a document which the committee ask leave to present as part of their report; yet he has not been entirely accurate. At the last session he estimated the imports for 1821 at fourteen millions. This was esteemed by the best informed members of the House as too low, and the Secretary was openly censured for presenting a view of the finances worse than they really were. The Committee of Ways and Means were directed by the House to investigate the subject, and they reported that the imports would give fifteen millions of dollars. They were incorrect, for the customs gave little more than thirteen millions in 1821, yet the committee formed their opinion upon data that they thought were tenable; they took the average receipts for the four preceding years, which gave the sum of \$17,868,809, and they might have, with such a result, been justified in estimating a higher amount than they did. They thought themselves safe in assuming for 1821, the amount actually received from the customs in 1820, to wit: of fifteen millions. It appears, however, from

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the actual receipts, that their estimate was erroneous. The result being so much less than they had presumed, arose from a variety of causes. A less amount was received from bonds in suit than had been expected; a greater amount of debentures were issued than could have been anticipated, owing to the distress of the merchants compelling them to export, to enable them, by the debentures, to meet the payments of their bonds, and to the following circumstance: Debentures amounting to a sum exceeding eight hundred thousand dollars, which were payable in 1820, were not paid until 1821, thus becoming an unexpected charge upon 1821.

If that charge had been paid in 1820, the estimate of the Secretary, of fourteen millions of dollars from the customs, would have been nearly correct, and the report of the Committee of Ways and Means would have been different from what it was. Other causes operated most powerfully—an inability to pay for the imports on the part of the consumers, and the rapid increase of the manufactures of the country—an increase that the most sanguine had not anticipated. The following view will show the great loss of revenue in two years, and particularly in that arising from cottons and woollens; those articles pay an ad valorem duty of 25 per cent.—none others do. In the year 1818 it will be seen that the imports of those articles amounted to \$24,804,188; and in 1820 only to \$8,980,075—being a loss, in two years, on those two items, of \$15,824,113—a loss to an extent that no human being could have foreseen. It however carries with it this consolation, that it shows the great and salutary increase of the national manufactures, and gives a well-founded expectation that, in a few years, our own manufactures of cotton and woollen will be equal to our consumption.

Of goods paying an ad valorem duty, the average value in the years 1818, 1819, and 1820, was:

	<i>Cost.</i>	<i>Duties.</i>
In 1818 - -	\$58,661,504	\$11,947,260
1819 - -	39,885,467	9,631,738
1820 - -	22,128,487	4,420,959

Amount of imports at several rates of duties.

	15 per cent.	20 per cent.	25 per cent.
In 1818	\$19,445,525	\$9,524,531	\$24,804,188
1819	13,971,593	5,979,736	16,555,399
1820	9,407,288	2,400,789	8,980,075

Duties on Spirits.

In 1818 - - - -	\$2,646,186
1819 - - - -	1,959,125
1820 - - - -	1,728,665

Difference between 1818 and 1820 - \$917,521

Duties on Coffee.

In 1818 - - - -	\$959,970
1820 - - - -	664,592
Difference - - - -	<u>\$295,378</u>

The committee submit, herewith, three statements, obtained from the Treasury Department. From these statements it appears that, after the 30th of September, 1814,

The interest on the public debt will be \$4,948,898 67

Add interest on \$5,000,000 to claimants under the Spanish treaty, at 5 per cent. - - - -	250,000 00
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Arming the militia - - - -	5,198,898 67
Civilization of Indians - - - -	200,000 00
Gradual increase of the Navy - - - -	10,000 00
Indian annuities - - - -	500,000 00
	157,875 00

Amount of permanent appropriations subsequent to September, 1824 - - - -	6,066,773 67
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Add to the above the amount of appropriations for the service of 1822, after deduction of items not required for subsequent years - - - -	8,706,042 00
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Amount of presumed expenditures of the year 1825 - - - -	14,772,815 67
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The committee pretend not to form any estimate of the revenue that will arise in 1825; but with a view of presenting the subject, they assume may be estimated at \$16,000,000

And they presume that the proposed revision of the tariff of 1816 may give an addition of - - - - 1,500,000	17,500,000 00
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If the result should be as presumed, there would remain subject to the Sinking Fund - - - -	\$2,727,184 33
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Which amount, with salutary retrenchments on the present public expenditures, would be adequate to meet a sinking fund of eight millions of dollars, and to leave some funds applicable to unforeseen events.

If the exchange of stock, proposed by the act which has lately passed, should take effect, there will be a saving of interest, resulting annually therefrom, of \$346,063, which may be added to the above result.

All which is respectfully submitted.

AMENDMENTS TO THE CONSTITUTION.

Mr. BLAIR, of South Carolina, submitted for consideration the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendments to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes as part of the Constitution:

“That no increase or diminution of the compensation to Representatives, for their services as such, shall be made by Congress, to have effect or operation during the period for which the members of the House of Representatives, acting upon the subject, shall have been elected.

“That no person shall be appointed by the President of the United States to any office, either of profit, honor, or trust, or who shall have been a member of either House of Congress within the last two years preceding the election of the President for the time being.”

In offering this proposition—

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Mr. BLAIR said the object of this resolution was to amend the Constitution in such a manner as would perhaps prevent a frequent recurrence to such debates as had agitated the House for several days past; and to prevent, also, any improper motive, either of avarice or of popularity, from attaching to the conduct of any Congress that might hereafter find it necessary to increase or diminish the compensation allowed to members of either House. Another object of the resolution, he said, was to place the members of both Houses as far beyond even a suspicion of any improper influence as possible. It would not be in order now, he said, to develop the advantages that might result from such amendment of the Constitution as this resolution proposed. He therefore only requested that the Clerk would read the resolution, and that it might lie on the table until the next session, when he designed to call it up.

MILITARY REGULATIONS.

Mr. STEVENSON rose and remarked that the House on yesterday were good enough to lay upon the table the bill fixing the Military Peace Establishment, on an assurance from him that a satisfactory explanation would be given to-day (so far at least as General Scott was concerned) of the transactions alluded to in the debate of yesterday. Mr. S. was gratified in saying that it was now in his power to redeem the pledge which he and his colleague (Mr. ARCHER) had given. The conduct of that officer, in relation to this subject, had been not only justifiable, but, in his opinion, praiseworthy. He had discharged the duty required of him in a way not only to free himself from censure, but to entitle him to the thanks of the country. The facts were these: General Scott was in Philadelphia when the book of rules and regulations for the Army, printed by Gales & Seaton, under the order of the House, came from the press; copies of it were sent to him at Philadelphia to be corrected. He accordingly corrected two copies and had them carefully examined with each other. One he returned, the other he forwarded to the Department of War, with a request that it should be laid before the Military Committee. It was accordingly given to the Chairman of that Committee, (Mr. SMYTH of Virginia,) who states that it was received by him, and he thinks approved by Congress and filed with the Clerk, and it was this corrected copy, he supposes, on which the bill passed. This was in January. Mr. S. said that this was a subject of sufficient importance to require investigation by a committee of the House; it was due to the country and the individual, and he therefore offered the following resolution for adoption:

Resolved, That a committee be appointed to inquire and report to this House whether the system of field service and police, adopted for the government of the Army at the last session of Congress, has been published in form and effect different from the system adopted; and, if so, how it has happened; and that they have power to send for persons and papers.

Mr. FLOYD commenced his remarks by noticing

the intimation which he understood his colleague to have thrown out, that charges had been yesterday made against General Scott. [Mr. S. said he had spoken of the charges generally, and not as charges against General Scott.] Mr. F. said, that he did say, yesterday, that there was a forgery committed under that law, and the gentleman pledged himself to vindicate General Scott from blame on that score. I (said Mr. F.) am not in the habit of giving pledges for anybody. I have been too well acquainted with the manner in which things are sometimes conducted in this country, to give pledges for anybody. Mr. F. made no charges upon any one, but he said there was a forgery. If it could be explained away by those whom it concerned, he should be as much rejoiced as any man to find the War Department and General Scott, and all concerned, acquitted of blame. It was not in the mind of the Clerk of this House, that any document at all, such as a copy of the Regulations, had been put into his charge. What Mr. F. said, and now repeated was, that a resolution of Congress required the Secretary of War to have a system of rules and regulations for the government of the Army compiled and laid before Congress; that, in obedience to that resolution, such a system was reported; that, by the order of this House, the manuscript thus laid before it was ordered to be printed for the use of the members; that it was printed, and laid on the table of every member, and that it was enacted into a law. Now, even granting all the gentleman said—that a printed copy had been sent to General Scott, corrected by him, and returned to the War Department, and that it had been, by the Chairman of the Military Committee, committed to the care of the Clerk—Mr. F. said he spoke not of General Scott, but of the law, and the circumstances attending it—no correction of the document, thus printed for the use of the members, could have been by them enacted into a law. The manuscript copy was here, and all control of the War Department, or of anybody else over it, had ended, &c. Who made these interpolations, Mr. F. said he knew not—he cared not. How the fact transpired, was a matter equally immaterial to him, and to the House. All that was material was the fact. Mr. F. said, likewise, that he expected it might be in his power, in the course of this day, to obtain possession of a document which would show the practical effect of that forgery. He did not know that he should certainly obtain it. No injury, however, could arise from the delay to pass this bill, as well as the resolution, upon the table; and he hoped they would both be allowed to lie on the table.

Mr. ARCHER felt himself called upon by the relation in which he was placed, by his relation of a friendship of long standing with the very distinguished officer whose name had been brought into view of the House, to make an explanation, rather more full in some particulars, than given by his friend from Virginia. He was truly gratified to find the disposition which his colleague (Mr. FLOYD) brought to the consideration of this subject. He knew him to be incapable of doing

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injustice to General Scott; and thought that he could state this matter in such a way, that his colleague himself would be the very first to stand upon this floor and acquit that officer of any blame on this subject. What, Mr. A. went on to examine, was, the matter which was thought to require examination? A discrepancy between the printed copy of the regulations, and the copy which had been laid before the House. General Scott was ordered to prepare a system of rules and regulations for the government of the Army. He did so, as thus became his duty. At an early period of the last session, a copy of this system was laid before this House. After the work was printed for the use of the members, several copies were sent to General Scott, then at Philadelphia. On examination, General Scott discovered some errors which required correction. With great care he made the correction which he thought proper, and also made a few alterations, all which were made with the pen, in red ink. In this corrected form, he sent one copy to the War Department, and reserved for himself another, carefully collated with that which was sent here. Was there any thing wrong in this proceeding of General Scott? So far from it, Mr. A. argued, he had done no more than what he owed to the interest of the Government and his own reputation, both of which were involved in it. The copy which General Scott sent to Washington, Mr. A. said, was sent by the Secretary of War to the Military Committee, according to the request of General Scott; and, after the receipt of this corrected copy, the regulations received the assent of Congress. This work was therefore corrected; but no interpolation or alteration was made by General Scott, or by anybody else, after the work had been passed upon in its corrected form by this House. Mr. A. further explained the ground of the alteration of 75th article, which had been specially complained of. It appears, by an antecedent article of the same regulations, that in case of promotion, though the rule of seniority was to be observed in general, yet a power was given to the Executive to depart from that rule in extraordinary cases. It occurred to General Scott, that, if that power was given in extraordinary cases in regard to promotions, *a fortiori* the same power ought to be given in the case of transfers, and he had therefore applied to the article of "transfers" the same words as the regulation already contained in regard to promotions. The explanation of the whole matter which he had received, was, Mr. A. said, so satisfactory to him that he should, if the House thought with him, oppose the inquiry, upon the belief that no further inquiry could be necessary in relation to it. In addition this, Mr. A. held in his hand a very short document, proving the material fact of the corrected copy having been formally transferred to the Military Committee, the organ of this House, which document he read as follows:

"DEPARTMENT OF WAR, Feb. 22, 1821.

The Secretary of War's compliments to General Smyth, and transmits to him the "system of field service and police," with the correction of Major General Scott.

PHILADELPHIA, Feb. 20, 1821.

General Smyth,
1821, Feb.

Gen. A. Smyth, Chair'n
Committee M. A. House of
Rep's.

The above are correct copies from the books of the War Department.

It appears, from the remark in red ink [*italic*] above, that the letter of Gen. Scott, of the 20th Feb. above, was transmitted to Gen. Smyth.

C. VANDEVENTER.

30th April, 1822."

Mr. MITCHELL, of South Carolina, asked the gentleman from Virginia, whether this corrected copy spoken of was certainly the one acted upon by the Military Committee and intended to be established?

Mr. ARCHER said it was not for him to say, not having been a member of that committee. But he had established the fact that it was sent to that committee from the War Department, with the request that it might be adopted.

Mr. WRIGHT was in favor of investigation of this matter by a committee, and against discussing it at this time. He flattered himself from the high standing and honorable character of the officer in question, that he had nothing to apprehend from any investigation.

Mr. SMYTH made a very particular statement of facts, confirming, in general, what he had said yesterday, and what had fallen from Mr. STEVENSON and Mr. ARCHER to-day. His recollection did not enable him to say, whether he had laid before the Military Committee either the first corrected copy which he received from General Scott, or the second more complete copy, which latter, however, it was strongly impressed upon his mind, that he had given to the Clerk, either for the purpose of being filed, or sent to the Senate with the bill. The Clerk, though he has it not, thinks he saw it, and he could not well have seen it but at the Clerk's table, where (Mr. S.) must have placed it. The first copy received from General Scott, Mr. S. now produced. It was not nearly as correct as the last received; but even this copy contained, in all, forty-seven different corrections—leaving, however, yet nineteen blanks not filled, though lessening the number of blanks in the original manuscript. It was obvious, Mr. S. argued, that Congress did not mean to adopt the original sketch, with its blanks, &c., and it was equally obvious that they would not have enacted the first corrected copy, containing, as it did, so many blanks yet to be filled. The copy which they enacted, therefore, must, from the reason of the thing, have been the complete copy, as he well recollected such to have been his intention. In examining this code of regulations, Mr. S. said he had not very minutely scanned it. He glanced his eye over it, and, seeing much to approve and nothing to condemn, he had recommended its adoption. In so doing, what did he act upon? Upon the confidence he reposed in the talents, integrity, and military knowledge of Gen-

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eral Scott. On what did the House act in passing the act? On the same principle; and in that view it is obvious that they must have taken the perfect copy. The regulations must have been adopted in the shape in which they were when the bill was reported for establishing them—which was the shape in which they were now promulgated. As to the practical operation of this corrected article, Mr. S. said it could have no effect on the question now before the House, because it could not, when adopted, be foreseen in what manner it was to operate. General Scott, in the most positive and clear manner, had declared, that he had not designed the article with a view to its operation on any particular individual. If the gentleman from Virginia objected to the article respecting brevets, it was enough to say that it contained no more than was already contained in the regulation of the Department on that subject, and it was better that the provision on the subject should be legal and fixed, than that it should depend on regulation. The War Department, Mr. S. added, had nothing to do with this thing. The thing was altogether with General Scott and the Military Committee of the last session, or himself, the chairman of that committee. For himself, he did verily believe that he received the last corrected copy of the regulations, and that the volume promulgated is a transcript of that copy. The law, therefore, is published precisely as prescribed by the act of Congress.

Mr. COCKE made a statement of facts in this case, to the best of his recollection. He gave a history of the incidents of the day, the material part of which was that, himself being a member of the Military Committee, and occasionally acting as chairman of it in the absence of Mr. SMYTH, (who had disagreed with the Committee respecting the reduction of the Army,) he had no recollection of any corrected copy of the rules being laid before that committee—nor did he recollect ever to have seen or heard of a corrected copy of them until he heard of the official copy varying from that which was laid before Congress. He did not propose to inquire into the effects of this or that regulation; but he thought it due to the House to state the facts he had mentioned, in regard to which the recollection of other members of the committee corresponded with his.

Mr. ARCHER made some explanatory remarks. He had no objection to the inquiry, except as wholly unnecessary, and did not by any means intend to make the personal and professional merit of General Scott an argument against it, because he should rather consider it an argument the other way.

Mr. WALWORTH stated, that it appeared that the bill to reduce and fix the Peace Establishment was passed in the House of Representatives, on the 23d of January, 1821, just one month before the amended copy of the Army regulations was sent to General Smyth, chairman of the Military Committee. Whether the 14th section was then contained in the bill he did not know. It was not in the printed bill. That, on the 24th of February, the Senate passed the bill with amendments, and

the amendments were hanging between this House and the Senate several days; from which it would seem probable that the House and Senate passed upon the original regulations, and not upon the amended copy; but as the President did not approve the act until the 2d of March, it was probable General Scott supposed the amended regulations were those sanctioned by Congress. He thought it was due to the character of that distinguished officer, that the committee should be appointed, and that he should be permitted to explain the transaction. [Mr. WALWORTH afterwards examined the original proceedings in the Clerk's Office, and has furnished the following statement:]

The bill to reduce the Army passed the House of Representatives on 23d January, 1821, without the 14th section. On 24th February the Senate passed the bill with amendments. On the 27th of February the Committee on Military Affairs, in the House, reported certain amendments to the Senate's amendments, and, among others, the 14th section of the act, which adopts the system of regulations of General Scott, and which amendments were passed by the House the same day, and were adopted by the Senate on the 28th of February.

Mr. LITTLE moved to lay the resolution on the table; which resolution was negatived—76 to 65. After which, a disposition appearing to prolong the debate—

On the demand of Mr. VANCE, the Speaker proceeded to other business, the morning hour allotted to the consideration of original motions having passed.

COMPENSATION BILL.

Mr. HARDIN moved that the House take up for consideration the bill to reduce the compensation of the members of Congress, &c., and on that motion he called for the yeas and nays, which were thereupon ordered; and, the question being taken, it was carried—yeas 120, nays 46.

Mr. HARDIN, after a few preliminary observations, in which he stated it to be the first time he had ever proposed or had voted for the previous question, yet he now felt it his duty to move it, and did so accordingly; but the call was not sustained by the House—ayes 53, noes 86.

The question recurred upon Mr. WRIGHT's motion, to add to the instructions a proviso, that the mileage should be at the rate of thirty, instead of twenty miles per day for the members; and on this question Mr. W. called for the yeas and nays, which were ordered; and the question being taken thereon it was decided in the negative—yeas 79, nays 87, as follows:

YEAS—Messrs. Allen of Massachusetts, Archer, Barber of Connecticut, Bateman, Bayly, Borland, Brown, Buchanan, Burrows, Butler, Cassedy, Condict, Conkling, Conner, Cushman, Darlington, Denison, Dickinson, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Findlay, Fuller, Gebhard, Gross, Hemphill, Hooks, Hubbard, F. Johnson, Jones of Virginia, Keyes, Lathrop, Litchfield, Little, McCarty, McDuffie, McNeill, Matlack, Mattocks, Milnor, Mitchell of Penn., Mitchell of S. C., Montgomery, Moore of Penn., Moore

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of Virginia, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Patterson of Pennsylvania, Pitcher, Plumer of Pennsylvania, Rich, Rochester, Rogers, Russ, Russell, Sawyer, Sloan, S. Smith, J. S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Stewart, Stoddard, Swan, Tatnall, Tod, Tomlinson, Walworth, Warfield, White, Wood, Woodcock, Worman, and Wright.

YAYS—Messrs. Alexander, Baldwin, Ball, Barber of Ohio, Barstow, Bassett, Baylies, Blair, Breckenridge, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Chambers, Cocke, Colden, Cook, Crafts, Crudup, Cuthbert, Dwight, Edwards of North Carolina, Eustis, Farrelly, Floyd, Gilmer, Gist, Gorham, Hardin, Harvey, Hawks, Hendricks, Herrick, Hill, Hobart, Holcombe, Jackson, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Leftwich, Lincoln, Long, McCoy, McLane, McSherry, Mallary, Matson, Metcalfe, Moore of Alabama, Nelson of Virginia, New, Overstreet, Pierson, Plumer of New Hampshire, Poinsett, Rankin, Reed of Massachusetts, Reed of Maryland, Reid of Georgia, Rhea, Ross, Ruggles, Sanders, Scott, Sergeant, Arthur Smith, W. Smith, A. Smyth, Swearingen, Thompson, Tracy, Trimble, Tucker of Virginia, Tucker of South Carolina, Vance, Van Rensselaer, Van Wyck, Walker, Whipple, Williams of Virginia, Williams of North Carolina, Williams, Wilson, and Woodson.

So the amendment was lost.

Mr. HARDIN expressed his opposition to a commitment, on the ground that the subject was fully understood by the House, and could be decided upon without the formality of going into Committee upon it.

Mr. WOOD was also opposed to the commitment, on the ground that he was unwilling to reduce the compensation of the officers of Government, but thought that six dollars per day was as much as it was expedient the members of the Legislature should receive.

Mr. H. NELSON moved to add to the instructions a provision, the purport of which was, that the bill should be so reported as to allow to the members of the present Congress an average allowance of six dollars per day for attendance, and six dollars per day for every twenty miles travel, for the current and next session. Mr. N. stated, that this form of the proposition avoided the Constitutional question that might have operated against the amendment he had offered at an early part of the debate, containing essentially the same provision. His object was, that the compensation should be reduced for the whole term of the Congress, and not be limited to that part of it which was contained in the next approaching session.

A question of order was suggested by Mr. BASSETT, upon a motion of Mr. SMITH, of Maryland, to divide the proposition; and, after some further remarks by Messrs. WILLIAMS, of North Carolina, and WHIPPLE, the motion was withdrawn.

Mr. FARRELY moved to amend the proposition, by substituting six dollars and forty cents in lieu of six dollars, as the rate of compensation; but before any question was taken thereon, Mr. BALL renewed the call for the previous question, but it was refused by the House—ayes 68, noes 78.

Mr. CONDUCT moved to strike out the word "average," but it was negatived without a division.

Mr. CANNON renewed the motion to lay the bill and amendments on the table.

On this motion Mr. HARDIN called for the yeas and nays, which were thereupon ordered and taken, and decided in the negative—yeas 41, nays 127, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Ball, Barstow, Bayly, Blackledge, Breckenridge, Burrows, Cannon, Colden, Cushman, Dickinson, Gilmer, Herrick, J. S. Johnston, Jones of Tenn., Kirkland, Lathrop, Long, McCarty, McDuffie, McNeill, Milnor, Newton, Pierson, Poinsett, Rankin, Reid of Geo., Sawyer, Scott, Sloan, S. Smith, Spencer, Sterling of Connecticut, Sterling of New York, Tatnall, Tucker of Virginia, Van Rensselaer, Williamson, and Wilson.

NAYS—Messrs. Baldwin, Barber of Connecticut, Barber of Ohio, Bassett, Bateman, Baylies, Blair, Borland, Brown, Buchanan, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cassedy, Chambers, Cocke, Conduct, Conkling, Conner, Cook, Crafts, Crudup, Dane, Darlington, Denison, Durfee, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Farrelly, Findlay, Floyd, Gebhard, Gist, Gorham, Gross, Hardin, Harvey, Hawks, Hemphill, Hendricks, Hill, Hobart, Holcombe, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, Kent, Keyes, Leftwich, Lincoln, Litchfield, Little, McCoy, McLane, McSherry, Mallary, Matlack, Matson, Mattocks, Metcalfe, Mitchell of Pennsylvania, Mitchell of South Carolina, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, New, Overstreet, Patterson of Pennsylvania, Phillips, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reed of Maryland, Rhea, Rich, Rochester, Rogers, Ross, Ruggles, Russ, Russell, Sanders, Sergeant, Arthur Smith, W. Smith, Alexander Smyth, Stewart, Stoddard, Swan, Swearingen, Taylor, Thompson, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Upham, Vance, Van Wyck, Walker, Walworth, Warfield, Whipple, White, Williams of Virginia, Williams of North Carolina, Wood, Woodcock, Woodson, and Worman.

Mr. RICH then moved to strike out the limitation of the amendment to the present Congress, but the motion was lost without a division.

Mr. WALKER moved to amend the instructions so as to make the proposed reduction fifteen per cent. instead of twenty, but the motion was negatived without debate or division.

Mr. MONTGOMERY moved to strike out the word "six" dollars where they occur in the motion of Mr. NELSON, and to insert in lieu thereof the words "four" dollars, and on that question he called for the yeas and nays, which were ordered, and, having gone about half through with calling the same—

Mr. H. NELSON inquired of the Speaker whether it would be in order for him, as the mover, to accept of the modification proposed by the gentleman from Kentucky, (Mr. MONTGOMERY.)

The SPEAKER decided that it would be in order at all times until the question had been decided, or an amendment thereof made by the House.

Mr. NELSON accepted the modification.

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Mr. HARDIN stated that, under the motion as it now stood, the members at the next Congress would have to bring their own provisions, and pay out two hundred and seventy-six dollars for the honor of coming here, and, if it prevailed, he would venture to predict that, notwithstanding the professions of patriotism, not five members would be found at that time to attend the House.

Mr. MONTGOMERY remarked that he had not adverted to the consequences to which the motion would lead at the time he had proposed it, but, as it was done, he would not recall it.

The question was then taken by yeas and nays, and decided in the negative—yeas 34, nays 132, as follows:

YEAS—Messrs. Baylies, Bayly, Blackledge, Borland, Breckenridge, Burrows, Cannon, Colden, Conner, Cushman, Dickinson, Eustis, Farrelly, Fuller, Gebhard, Hill, Jones of Tennessee, Keyes, Litchfield, McDuffie, Mitchell of South Carolina, Montgomery, Nelson of Maryland, Nelson of Virginia, Newton, Pitcher, Rochester, Russ, Sawyer, Sloan, Sterling of New York, Tatnall, Taylor, and Warfield.

NAYS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barber of Connecticut, Barber of Ohio, Barstow, Bassett, Bateman, Blair, Brown, Buchanan, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Cocke, Condict, Conkling, Cook, Crafts, Crudup, Cuthbert, Dane, Darlington, Denison, Durfee, Eddy, Edwards of Connecticut, Edwards of North Carolina, Findlay, Floyd, Gilmer, Gist, Gorham, Gross, Hardin, Harvey, Hawke, Hemphill, Hendricks, Herrick, Hobart, Holcombe, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Kent, Lathrop, Leftwich, Lincoln, Little, Long, McCarty, McCoy, McLane, McNeill, McSherry, Mallary, Matlack, Matson, Mattocks, Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Murray, Neale, Nelson of Massachusetts, New, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Massachusetts, Reed of Maryland, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Russell, Sanders, Scott, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, Spencer, Sterling of Connecticut, Stewart, Stoddard, Swan, Swearingen, Thompson, Tod, Tomlinson, Tracy, Trimble, Tucker of Virginia, Tucker of South Carolina, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Whipple, White, Williams of Virginia, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, Woodson, and Worman.

Mr. PIERSON renewed the motion, as originally proposed by Mr. H. NELSON, so as to make an average allowance of six dollars for both sessions of the present Congress, and on that motion he called for the yeas and nays, which were thereupon ordered, and the question was decided in the negative—yeas 51, nays 108, as follows:

YEAS—Messrs. Baylies, Bayly, Blackledge, Borland, Breckenridge, Butler, Campbell of New York, Cassidy, Conner, Cook, Cushman, Eddy, Edwards of Pennsylvania, Eustis, Farrelly, Gebhard, Gorham, Hooks, Hubbard, F. Johnson, Jones of Tennessee, Keyes, Litchfield, Little, McCarty, McDuffie, Mat-

lack, Mattocks, Morgan, Murray, Nelson of Maryland, Nelson of Virginia, Patterson of New York Pierson, Pitcher, Reed of Massachusetts, Rochester, Russ, Russell, Sawyer, Sergeant, Sloan, S. Smith, Sterling of Connecticut, Sterling of New York, Swan, Swearingen, Taylor, Tomlinson, Walworth, and Warfield.

NAYS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Ball, Barber of Ohio, Barstow, Bassett, Bateman, Blair, Brown, Burton, Cambreleng, Campbell of Ohio, Chambers, Cocke, Colden, Conkling, Crafts, Crudup, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Edwards of Connecticut, Edwards of North Carolina, Findlay, Gilmer, Gist, Gross, Hardin, Harvey, Hawks, Hendricks, Herrick, Hill, Hobart, Holcombe, Jackson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Kent, Kirkland, Lathrop, Leftwich, Lincoln, Long, McCoy, McLane, McNeill, McSherry, Mallary, Matson, Metcalfe, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Neale, Nelson of Massachusetts, New, Newton, Overstreet, Patterson of Pennsylvania, Phillips, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Maryland, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Sanders, Scott, Arthur Smith, W. Smith, Alexander Smyth, Spencer, Tatnall, Thompson, Tod, Tracy, Trimble, Tucker of Virginia, Tucker of South Carolina, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Whipple, White, Williams of Virginia, Williams of North Carolina, Wilson, Wood, Woodcock, Woodson and Worman.

Mr. McCARTY moved that the bill and amendments be postponed to the second Monday in December next. He said, he believed, when the subject was first proposed, that there was not time to pass the bill, and the subsequent time it had occupied, confirmed him in the opinion. It was under this view of the subject that he offered the motion, and upon it he called for the yeas and nays.

Mr. CAMBRELENG moved the previous question, but the call was not sustained by the House.

The question was then taken by yeas and nays, and decided in the negative—yeas 46, nays 113, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Ball, Barber of Ohio, Bayly, Blackledge, Borland, Breckenridge, Cannon, Colden, Cushman, Dickinson, Gilmer, Gorham, Herrick, Jones of Virginia, Jones of Tennessee, Kirkland, Lathrop, Little, Long, McCarty, McNeill, Milnor, Montgomery, Nelson of Virginia, Newton, Patterson of New York, Poinsett, Rankin, Reed of Georgia, Sanders, Scott, Sloan, Spencer, Sterling of Connecticut, Sterling of New York, Tatnall, Taylor, Tucker of Virginia, Upham, Van Rensselaer, Walworth, Williamson, and Wilson.

NAYS—Messrs. Baldwin, Bassett, Bateman, Baylies, Blair, Brown, Buchanan, Burton, Butler, Cambreleng, Campbell of New York, Campbell of Ohio, Cassidy, Chambers, Cocke, Condict, Conkling, Conner, Crafts, Crudup, Cuthbert, Dane, Darlington, Denison, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Eustis, Findlay, Floyd, Gebhard, Gist, Gross, Hardin, Hawks, Hemphill, Hendricks, Hill, Hobart, Holcombe, Hooks, Hubbard, Jackson, F. Johnson, J. T. Johnson, Kent, Keyes, Leftwich, Lincoln, Litchfield, McCoy, McDuffie, McLane, Mc-

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Sherry, Mallary, Matlack, Matson, Mattocks, Metcalfe, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, New, Overstreet, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Massachusetts, Reed of Massachusetts, Reed of Maryland, Rhea, Rich, Rochester, Rogers, Ross, Ruggles, Russ, Russell, Sergeant, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, Stewart, Stoddard, Swan, Swearingen, Thompson, Tod, Tomlinson, Tracy, Tucker of South Carolina, Vance, Van Wyck, Warfield, Whipple, Williams of Virginia, Williams of North Carolina, Wood, Woodcock, Woodson, and Worman.

Mr. ALLEN, of Massachusetts, moved a further proviso to the instructions, the purport of which was, that no member should receive pay for any greater number than one hundred days in any one session.

Mr. ALLEN called for the yeas and nays, but the motion was not accorded by the House.

Mr. A. said he believed that the professed object of the Committee of Retrenchment would be more effectually accomplished by this amendment, than by the passage of the bill which they had reported without it; and he thought it would contribute more to lessen the expense of this part of the Government than any other provision that had been proposed. There should not, he said, be any inducement for members to prolong the sessions—however pure and patriotic might be their intentions, it exposed them to the imputation of unworthy and dishonorable motives.

It would be recollected, he said, that a resolution for reducing the pay of members, had been offered at an early period of the session, but the House refused even to consider it, by an almost unanimous vote; and now, after sitting one hundred and fifty days, and taking our pay under the existing law, when a few days only remain to us, and public business of the utmost importance is pressing upon us, we are set about regulating the pay of members at the *future* sessions. We have already taken our pay for the principal part of the period for which we were chosen, and shall we now make a *merit* of reducing two dollars for each of the few days that remain to us? If gentlemen were in earnest to make a reduction, why did they not meet the question at the commencement of the session? We have spent the time, and got the money, and now we gravely talk of reduction! Mr. A. said, gentlemen had considered this as a question between their own pockets and the people. This was a narrow view of the subject—it was not a measure of mere private consideration; it was chiefly to be regarded in the influence it might have upon the future composition and character of the House.

A gentleman from New York, (Mr. Wood,) had said, that the compensation should not be so high as to induce members to protract the sessions for private advantage. But will the gentleman's suggestion afford any security against the mischief he deprecates? Put your compensation at what you will, if it is sufficient to induce men to come

here, it will be sufficient to induce them to stay here; and there are men enough to whom the lowest compensation would be an object to be coveted.

Mr. A. said, he believed the business of every session of Congress could be done in one hundred days as well as in a longer time. The second session of each Congress is limited, generally, to about that time, and we go through with about as much business as in the long sessions, and perform it as well. The Fourteenth Congress had more business before it perhaps than any other ever had, unless, indeed, we except the First Congress, which had to organize the Government, and to put it in operation. They had to investigate and pass upon that vast mass of private claims which grew out of the late war. They had to reduce the establishments of the country, and adapt them to a state of peace; yet they accomplished all these, in addition to the ordinary subjects of legislation, and rose on the 30th of April, leaving no business requiring an earlier meeting at their second session, than the Constitutional time. If the daily pay could be an inducement to protract the sessions, it was proper that such inducement should be taken away; and it was due to members that there should be no ground for imputing to them unworthy motives. This House, said Mr. A., is the depository of the rights and liberties of the people—it is the image of their sovereignty. The compensation should be such as to command the best talents in the country—it should be a fair recompence for their services. But the reward of men of public feelings, and of honorable and elevated sentiments, is not money. Money is but the means to enable them to do their duties. No gentleman on this floor, no member of the committee, had said, that the present compensation was too high. If it was right and just to reduce it, we ought to have reduced it before. We should also extend the reduction to the present session. Is the measure called for by the state of the public Treasury? The reduction it proposes, as the gentleman from Kentucky (Mr. HARDIN) has expressed it, would be but a drop in the ocean.

Mr. A. would be among the last who would vote for large salaries; but he would also be among the last to reduce the pay of members below a fair and equitable standard. He believed the proposition he offered would save more to the Treasury than the reduction contemplated in the bill would effect without it—that it would insure more despatch of the public business, and contribute more to reduce the burdens of the people.

Mr. WHIPPLE did not rise, he said, to enter into a discussion of the merits of the proposition now before the House. His only object was to vindicate the Committee of Retrenchment from the imputations that had been made upon it. The gentleman from Massachusetts (Mr. ALLEN) has insinuated that it was a project of the committee, and says it was not called for by the state of the Treasury, or by the people. Mr. W. contended it was imperiously called for by both. The first report of the committee showed conclusively that the situation of our finances, and the magnitude of

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the public debt required a retrenchment of our expenses, to restore the one, and to enable us to pay off the other; and he went into a discussion, at some length, to show the correctness of the report, and that the state of the Treasury required a reduction. But the gentleman from Massachusetts (Mr. ALLEN) has said that it is a gratuitous measure on the part of the committee, and that the people have not asked it of us. But does that gentleman not remember, that, at an early period of this session, an honorable member from Connecticut (Mr. EDWARDS) had moved a resolution to reduce the compensation of the members of Congress, pursuant to a resolution of the Legislature of that State—which resolution the House refused even to consider? And does he not know, said Mr. W., that the members of this House, from the State which I have the honor in part to represent, (New Hampshire,) have come here with similar instructions? Do not the votes given in this House furnish a refutation of the assertion that public sentiment does not demand this measure? If gentlemen are conscious that their constituents are satisfied with the present state of things, let them give a direct vote, to put this bill at rest. The people will never be wanting in that consistency of conduct which will not permit them to condemn what their better judgment approves. And if the public sentiment be so perfectly at rest on this subject, why these repeated attempts to put the bill from before the House by what I would denominate parliamenteering? Gentlemen might undoubtedly find themselves fully able to reconcile to their constituents what they now so entirely approve.

But great opprobrium, said Mr. W., has been cast upon the committee for having brought forward this measure at a late period of the session, when other important business was crowding upon the House. The committee, it is true, was appointed in February; but they deemed it expedient to take a wide and comprehensive view of the subject, and to report a general system of retrenchment that should operate fairly and justly upon all those expenditures that could possibly be retrenched, and they did not propose, nor did they intend to bring the system into operation at the present session. But they have been challenged, from time to time, to bring it forward, and have been reproached for the delay. It is not the fault of the committee, then, if this bill stands in the way of other business. If there is any fault about it, it does not lie at the doors of the committee. Nor was this all—for Mr. W. contended that the passage of this bill was essentially necessary to preserve the steady habits of the country. As a nation we had gone on, year after year, in a habit of profusion and extravagance incongenial with our institutions, and if gentlemen would examine the history of other Governments, they would find that no Government, whatever may have been its structure or form, has, during so short a period from its foundation, increased so rapidly in its expenditures as our own. Whence do we derive our institutions? From the early, virtuous habits of the first settlers of this country. Let those pri-

meval manners be supplanted, and whatever name your Government may bear, its spirit will be oppression. I do not entertain the opinion that we are now in the broad road to ruin; but, sir, it becomes us to adhere to maxims of economy; for, if the step be once taken, it is difficult to recall what has been done—

*"Facilis descensus Avernì,
Sed revocare gradum, superasque evadere ad auras,
Hic labor, hoc opus est."*

Mr. W. was not of the opinion that the people of the United States were more penurious than was necessary to restrain the tendency in some classes to profusion. They were doubtless willing to compensate their public agents well; but he believed they did expect, and had a right to expect, that their Government would be administered in the spirit of our Revolutionary period, when we boldly held the doctrine that Government had its origin in the weakness of individuals, and had for its end the strength and security of the whole, in opposition to the wealth and security of a few. A habit of economy should be encouraged. Examples were not wanting to enforce it. George IV. has lately become so much of a radical that he has relinquished £300,000 of his royal income, and he (Mr. W.) could not but hope that those who professed to be republicans would show a disposition also to retrench.

Messrs. COOK and HARDIN also opposed the motion, when the question was taken, and the motion was negatived.

The recommitment to the committee, with instructions, was the question next in order.

The recommitment was supported by Messrs. SMITH, of Maryland, SMYTH, of Virginia, and JONES, of Tennessee, and opposed by Messrs. ROSS, STEWART, and WOOD, when the question was taken by yeas and nays, and decided in the negative—yeas 50, nays 118, as follows:

YEAS—Messrs. Ball, Bassett, Bateman, Bayly, Blackledge, Breckenridge, Burrows, Butler, Campbell of New York, Cannon, Condict, Fuller, Gist, Hill, Hooks, Jones of Tennessee, Keyes, Leftwich, Lincoln, Litchfield, Little, Long, McCoy, McNeill, Mallary, Matson, Nelson of Massachusetts, Newton, Overstreet, Patterson of New York, Pierson, Pitcher, Rankin, Reed of Massachusetts, Reed of Maryland, Rochester, Russ, Sawyer, Scott, Sloan, S. Smith, Alexander Smyth, Spencer, Sterling of Connecticut, Stoddard, Tatnall, Tomlinson, Tucker of South Carolina, Williams of Virginia, and Wilson.

NAYS—Messrs. Alexander, Allen of Massachusetts, Archer, Baldwin, Barber of Connecticut, Barber of Ohio, Barstow, Baylies, Blair, Borland, Brown, Buchanan, Burton, Cambreleng, Campbell of Ohio, Cassey, Chambers, Cocke, Colden, Conkling, Conner, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Farrelly, Findlay, Floyd, Gebhard, Gilmer, Gorham, Gross, Hardin, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hobart, Holcombe, Hubbard, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Kent, Kirkland, Lathrop, McCarty, McDuffie, McLane, McSherry, Matlack,

Mercer, Metcalfe, Milnor, Mitchell of Pennsylvania, Montgomery, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Morgan, Murray, Neale, Nelson of Maryland, Nelson of Virginia, New, Patterson of Pennsylvania, Phillips, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Reid of Georgia, Rhea, Rich, Rogers, Ross, Ruggles, Russell, Sanders, Sergeant, Arthur Smith, W. Smith, J. S. Smith, Stewart, Swan, Taylor, Thompson, Tod, Tracy, Trimble, Upham, Vance, Van Rensselaer, Van Wyck, Walker, Walworth, Warfield, Whipple, White, Williams of North Carolina, Williamson, Wood, Woodcock, Woodson, and Worman.

Mr. NEWTON moved that the House adjourn, on which Mr. WILLIAMS, of North Carolina, moved for the yeas and nays, which were taken thereon, and the question was decided in the affirmative—yeas 93, noes 71. So, at 5 o'clock precisely, the House adjourned.

WEDNESDAY, May 1.

The House resumed the consideration of the resolution submitted by Mr. STEVENSON yesterday, and, on the question, Will the House agree thereto? it passed in the affirmative; and Messrs. TATNALL, PITCHER, SANDERS, and SMITH of Kentucky, were appointed a committee in pursuance of the said resolution.

The House took up, and proceeded to consider, the report of the Secretary of the Treasury on the petition of Charles Grice; whereupon, it was ordered that the said report, together with the petition, be referred to the Committee of Commerce.

Mr. TUCKER, of Virginia, from the Committee on the Military Expenditures, made a report thereon.

The report concludes with the following resolutions:

Resolved, That the standing rules of this House shall be so amended as that the Committee on the Accounts and Public Expenditures relative to the War Department shall hereafter consist of seven members.

Resolved, That the Committee on the Judiciary shall inquire into the expediency of enlarging the duties of the Attorney General.

The report was ordered to lie on the table.

Mr. KENT, from the Committee on the District of Columbia, to whom was recommitted a bill for altering the jurisdiction of Justices of the Peace in said District, reported the same with amendments made pursuant to the direction of the House, and the bill and amendments were ordered to be laid on the table.

Mr. BARBER, of Ohio, submitted the following resolutions for consideration:

Resolved, That the Postmaster General be directed to report to this House, at the commencement of the next session, a bill for the establishment of post roads throughout the United States, which shall contain all the post roads now established, which may appear to him useful; and that he point out such routes as he may omit in the bill, and such alterations and new routes as he may insert therein, together with his reasons therefor.

Resolved, also, That the Postmaster General report a bill for regulating the Post Office Department, digest-

ing the existing acts on the subject, into one view; and that he point out such alterations as he shall have made in the existing acts, and his reasons therefor.

The question of consideration being required, it was taken and determined in the negative; so the House refused to consider the same.

Mr. GORHAM moved for the printing of two thousand additional copies of the report of the committee on the suppression of the slave trade, which it appears it is not intended to call up for decision at the present session. The motion was supported by the mover, and Mr. TOMLINSON, on the ground of the importance of the subject, and the necessity for a full examination of it during the recess, and was opposed by Mr. COCKE; when the question was put and carried—yeas 77.

Mr. COCKE moved for the consideration of the resolution heretofore submitted by him for the appointment of a committee of investigation to sit during the recess of Congress; but the House refused to consider the same.

Mr. CONKLING presented for consideration the following joint resolution:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendments to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as part of the Constitution:

"That no increase of the compensation of members of Congress shall take effect during the continuance of the Congress by which it shall have been made. And no law shall be passed fixing the pay of members of Congress at a greater sum than six dollars for each day's attendance, and six dollars for every twenty miles travel in coming to and returning from the Seat of Government."

In offering this resolution, Mr. C. said, the House has now been for several days engaged, how fruitlessly engaged he need not say, in endeavoring to fix the amount of our own compensation. For his part, he had witnessed the proceedings of the House with pain and mortification; and his mind had been irresistibly impelled to the conclusion that this was an unfit subject for unrestrained legislation. With a view, therefore, if possible, to prevent the recurrence of such, he would not say disgraceful, but, he would say humiliating scenes in future, he offered to the consideration of the House an amendment to the Constitution, which it was his intention to ask the House to discuss at the next session.

The resolution was ordered to lie on the table.

Mr. F. JOHNSON laid on the table the following resolutions, and gave notice that he should call for the consideration of the same on Saturday next:

Resolved, That the practice which has obtained in the public offices of this City, (of not attending to business until nine or ten o'clock in the morning, and closing the offices at three o'clock in the evening,) is inconvenient to those who have business to transact in them; is not such reasonable attention to the public

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service as should be given, nor such attention as the salaries allowed, by law, are entitled to command, and that the said practice ought to be abolished.

Resolved, That the President of the United States be requested to cause the respective Secretaries of State, of the Treasury, of War, and of the Navy, and the Postmaster General, to report to this House, on the second day of the next session of Congress, the number of active and well qualified clerks, and accountants, that will be necessary to perform the duties of their respective offices and departments, by requiring a reasonable, constant, and diligent attention to business.

Resolved That the number of officers and seamen of the Navy of the United States ought to be limited by law, and that the number of neither should exceed as many as can be actively and fully employed in the service.

Resolved, That the President of the United States be requested to cause to be laid before this House, on the 2d day of the next session of Congress, a plan for a Peace Establishment of the Navy of the United States, in conformity to the principles declared in the foregoing resolutions.

On motion of Mr. JOHNSON, the Committee on the Post Office and Post Roads were discharged from the further consideration of all the petitions and other matters that had been referred to them.

On motion of Mr. RANKIN, the Committee of the Whole were discharged from the further consideration of the bill providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in the States of Alabama and Mississippi; and the same being amended and gone through with in the House, was ordered to be engrossed for a third reading.

STATEMENT OF POSTMASTER GENERAL.

Mr. F. JOHNSON, from the Committee on the Post Office and Post Roads, presented the following communication from the Postmaster General; which was ordered to be laid on the table:

GENERAL POST OFFICE,
April 26, 1822.

SIR: I have the honor to transmit herewith a statement, exhibiting the actual condition of the General Post Office Department, conformable to your request.

Very respectfully, &c.

R. J. MEIGS, Jr.

Hon. FRANCIS JOHNSON,
Chairman Com. Post Offices, &c.

Statement of the actual condition of the Post Office Department.

Amount of postages collected from the establishment of the Post Office, viz: from the year 1793 to April 1, 1814, inclusive - - - - \$7,890,531 00

Amount of postages, collected under the administration of R. J. Meigs, viz: from April 1, 1814, to January 1, 1822 - - - - 8,083,829 00

Difference - - - - \$193,298 00

Amount of outstanding debit balances or debts due the Department, April 1, 1814 - - - - \$246,968 00

Amount of outstanding debit balances, or debts due the Department, January 1, 1822 - - - - 424,462 00

Leaving, for increase of balances, from April 1, 1814, to January 1, 1822 - \$177,494 00

Average amount of postage, now collected in one quarter of a year - 270,000 00

Excess of one quarter's postage over amount of debts, accruing from April 1, 1814, to January 1, 1822 - \$92,506 00

From the data above, it appears that the increase of debit balances, or amount of debts accruing under the administration of R. J. Meigs, Jr., is \$177,494, which is but a small fraction over two per cent. on the amount of postage during the same period.* Of this sum, viz: \$177,494, a part is due by late postmasters, whose accounts are now in suit—a part by late postmasters, whose accounts have been stated and sent out for collection—and a larger proportion by postmasters now in office, who are daily making payments by deposits in bank, by remittances, and on drafts issued by the Department.

It will also be seen that the amount of postages, collected under R. J. Meigs, Jr., exceeds the total amount collected, previous to his administration, in the sum of \$193,298; and that the total amount of debit balances accruing under his administration is less than the amount of one quarter's postage in the sum of \$92,506.

The amount of losses cannot be accurately stated, but is ascertained to be very small, and is believed to be less than one-tenth of one per cent. on the amount of postage.

The increase of post offices, since April 1, 1814, is about two thousand.

The amount now in suit is stated at about one hundred thousand dollars.

Amount paid by R. J. Meigs, Jr., into the Treasury of the United States, \$385,878 21.

The yearly amount now paid for the transportation of the mail, is \$314,998 06.

The total amount of advances, or balances due by contractors, whose contracts have expired, from April 1, 1814, to January 1, 1822, is \$4,009 95, which is less than one-twelfth part of one per cent. on the amount paid for mail transportation. No loss is ascertained to have arisen from these advances.

POST OFFICE ESTABLISHMENT.

Mr. F. JOHNSON moved that the Committee of the Whole be discharged from the further consideration of the bill "further to regulate the Post Office Department," which was agreed to. The said bill was then taken up by the House; and the first section thereof being under consideration in the following words:

"Be it enacted, &c., That all post roads, on which the net proceeds of the postages do not amount to one-third part of the expense of conveying the mail thereon, shall, at the expiration of the present contracts, be, and the same are hereby, discontinued, except it be a road on which the mail is usually conveyed from the

* This remark applies as well to the general balance, \$424,462, as to the increase of the same.

Seat of the General Government of the United States to the seat of government in a State or Territory; or from the seat of government in some State or Territory to the seat of government in some other State or Territory; or from the seat of government in a State or Territory to the seat of justice in the same county therein; or from the seat of justice in one county to that in another."

After a small verbal amendment thereof at the suggestion of Mr. F. JOHNSON—

Mr. RHEA moved to amend the same, by expunging therefrom the concluding words, "or from the seat of justice in one county to that of another;" which motion was negatived.

Mr. HUBBARD, of New York, moved an amendment to the bill, the purport of which was to authorize the Postmaster General to discontinue such post routes, at his discretion, as shall not produce one-third of the expense of conveying the mails thereon, instead of making such discontinuances absolute and imperative by the bill.

The motion was supported by the mover, and Messrs. HENDRICKS and COOK, and opposed by Messrs. F. JOHNSON, TOMLINSON, MALLARY, MCCOY, and WILLIAMS, of North Carolina, when the question was taken upon it, and negatived.

Mr. TAYLOR moved to amend the first section, by providing for the discontinuance of any post route, when the net proceeds of the postages do not exceed one-half of the expense of conveying the mail thereon, instead of one-third as reported in the bill.

The motion was supported by Messrs. TAYLOR and REED, of Massachusetts, and opposed by Messrs. F. JOHNSON, MALLARY, MOORE, of Alabama, and WOODCOCK; when the motion was put, and lost.

Mr. SANDERS moved to strike out the first section of the bill after the enacting clause; and the motion was supported at some length by the mover, but it was negatived by the House by a large majority; and no further amendments were proposed to that section.

The third section, in relation to the privilege of franking, being under consideration—

Mr. F. JOHNSON submitted a substitute for it, in the following words:

"That no postmaster shall be allowed, after the 30th June next, to frank any letter, package, or newspaper, whatsoever. Each postmaster shall be entitled to receive all letters and packages directed to him, and one daily newspaper, or newspapers equivalent thereto, free from the charge of postage: *Provided*. Such letter or package shall not exceed one half an ounce in weight, excepting letters and packages to and from the General Post Office, and to and from other post offices, upon the business, or relating to the concerns of the Post Office Department, which shall go free of postage as heretofore; *Provided, also*, That nothing in this section contained shall be construed to extend to the Postmaster General or the Assistant Postmasters General."

Mr. TAYLOR suggested an amendment to the substitute, which was decided to be not in order at present.

The substitute was opposed by Messrs. RHEA

HUBBARD, and HERRICK; when the question was put thereon, and negatived.

Mr. RHEA then moved to strike out the whole of the third section, as reported by the committee, restricting and limiting the privilege of franking as now authorized by law, and followed his motion by a speech in its favor.

Mr. PIERSON was also in favor of the motion to strike out that section.

Mr. CONDUCT moved to strike out that part of the section which excepts from the privilege of franking, letters written by or to the postmaster, on business of his own, or if it exceed half an ounce in weight.

The motion was opposed by Messrs. WOODCOCK, HUBBARD, and RHEA, and supported by Mr. CONDUCT; when the question being put thereon, it was negatived.

The question then recurred upon Mr. RHEA's motion to strike out the whole section; which was also put and lost.

Mr. SERGEANT moved so to amend the section, as to authorize postmasters to frank and receive, free of postage, letters upon the business of their office; which was agreed to.

The fourth section of the bill, to prevent postmasters and contractors for carrying the mail, from exercising both employments at the same time, being under consideration—

Mr. REED, of Maryland, proposed a proviso, the object of which was to make an exception to the section in the case of Rock Hall, in Maryland, where the mail was conveyed by packets, and the contractor was the only person that resided at the landing.

After some conversation on the subject of settling the phraseology and limitation of the proviso, in which Messrs. REED, of Maryland, WOODCOCK, HUBBARD, BURTON, SMITH, of Maryland, TAYLOR, and F. JOHNSON, participated, the motion prevailed; and, on motion of Mr. TOB, Clarke's Ferry, in Pennsylvania, was added thereto.

Mr. DENISON moved an additional proviso, the object of which was to make the operation of the section prospective only; which was agreed to.

The fifth section being under consideration—

Mr. WILLIAMSON moved an amendment, of which the object was, to make it the duty of the Postmaster General, as often as once in each year, specially to require a settlement with each of the deputy postmasters in the United States.

The motion was supported by Mr. WILLIAMSON, and opposed by Messrs. F. JOHNSON and PIERSON; when the question was taken, and the motion negatived.

Mr. PIERSON moved to strike out "sixty" days, as the period for the settlement of the accounts of the deputy postmasters, and to insert "ninety;" which was carried.

Mr. RHEA moved to strike out the section altogether; which was put, and lost.

The sixth section being under consideration—

Mr. F. JOHNSON moved to add an "s" to the word "postmaster," so as to authorize allowances to more than one postmaster for clerk hire and contingencies. The motion prevailed, and Mr.

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BARBER, of Ohio, moved to strike out the word "previously," which, in the bill reported, makes it necessary that the allowance of the extra charges should be previous to the expenditure.

The motion was supported by Mr. BARBER, of Ohio, and opposed by Messrs. F. JOHNSON and BUTLER; when the question was taken, and the motion was negatived.

Mr. COCKE moved to amend the section, by adding a proviso, the effect of which was, that no such extra allowance should exceed one thousand dollars.

The motion was opposed by Messrs. SANDERS, HUBBARD, and RUSS, when Mr. COCKE modified the same, so as to make it \$1,500 instead of \$1,000.

The motion was further opposed by Mr. F. JOHNSON, when

Mr. BUTLER moved to amend the amendment, by striking out \$1,500, and by inserting, in lieu thereof, \$5,000.

This motion was opposed by Messrs. SMITH, of Maryland, HILL, A. SMYTH, and COLDEN, when Mr. BUTLER withdrew the modification, and the question was taken on the proposition of Mr. COCKE, and negatived by a large majority.

The seventh section being under consideration—

Mr. HUBBARD moved to amend the section, so as to allow "thirty," instead of "twenty-five" per cent. on any sum received by the deputy postmasters, not exceeding one hundred dollars. And after a few remarks thereon by Messrs. HUBBARD, BARBER, of Ohio, PIERSON, MALLARY, and FULLER, in favor, and by Messrs. F. JOHNSON, TAYLOR, and TUCKER, of Virginia, against the motion, the question was taken, and the motion prevailed—ayes 66.

Mr. A. SMYTH moved to amend the section, so as to graduate the allowances as follows:

On any sum exceeding \$100, and not exceeding \$1,000, 20 per cent.

On any sum exceeding \$1,000, and not exceeding \$2,000, 15 per cent.

On any sum exceeding \$2,000, 8 per cent.

After a few remarks thereon by the mover and Mr. F. JOHNSON, the question was put, and negatived.

Mr. FULLER moved to strike out the whole section.

A debate ensued thereon, in which Messrs. FULLER, REED, of Massachusetts, and GORHAM, took part; when the question was taken and the motion lost.

Mr. PIERSON proposed to amend the bill so as to allow on any sum above one hundred dollars and not exceeding three hundred dollars, a commission of twenty-five per cent.; which was put and lost.

Mr. F. JOHNSON moved a proviso, the purport of which was, that nothing in the section should affect the commissions to be allowed to deputy postmasters on newspapers, magazines, and pamphlets, and for opening mails in the night; which was agreed to.

Mr. ALEXANDER SMYTH submitted the following amendment to be appended to the 7th section:

"And be it further enacted, That whensoever there shall be a vacancy in the office of deputy postmaster, and the receipts of the office shall have exceeded one thousand dollars per annum for the last two years, the Postmaster General shall report the fact to the President of the United States, who shall, if the Senate is not in session, make a temporary appointment, and shall, at the next session of the Senate, nominate, and, by and with the advice and consent of the Senate, appoint a person to fill the said office."

In support of the amendment, Mr. SMYTH contended that this was an expedient and important principle which he wished to incorporate into the bill; for some of the post offices were so lucrative that members of the House of Representatives, and even of the Senate, had been applicants for them. Mr. S. would agree that the President of the United States may, with propriety, look to this House for candidates for foreign missions, for judges, and to fill the situations of the heads of Departments; but he thought it was improper that he should do so, where pecuniary emolument was the only object of application. He thought the members of the Legislature should not be drawn from their duty in it to fill offices that were merely pecuniary. He referred to the case some years since from Philadelphia, in which the Executive declined any interference in regard to a postmaster, and the consequence was, that in a few days the Postmaster General was himself ejected from office. He also adverted to a recent case in the State of New York, which had occasioned great excitement. He thought in all such cases the responsibility should rest upon the Executive and Senate, and not upon an officer who may thereby become liable, not only to the indirect influence, but to the direct power of his superior.

Mr. F. JOHNSON was opposed not only to the principle of the amendment, but to the time and manner of its introduction. The effect of it would be to retard the passage of a necessary and important bill. Shall the appointment to an important office, he asked, be made to depend upon the fluctuations in its receipts? Shall it be referred to the President of the United States, or to the Postmaster General, according to the ebb and flow of the revenue? This, Mr. J. thought, was peculiarly improper, and inexpedient. He was also adverse to legislating with reference to individual cases, such as those from Pennsylvania and New York, to which the gentleman had alluded. He had heard no great complaint on the subject; and in relation to the latter case, he thought it very doubtful whether the President and Senate would have made a better appointment than the Postmaster General had done, or indeed whether they would have varied at all from that appointment.

Mr. SMYTH briefly replied, when the question was taken on the motion and negatived.

The eighth section, for increasing the rates of postage, being under consideration,

Mr. SERGEANT moved to strike out the whole section.

The motion was supported by Mr. SERGEANT, and opposed by Mr. F. JOHNSON, but before any question was taken thereon,

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Mr. NELSON moved to postpone the further consideration of the bill to the first Monday in December next.

The question being taken thereon, it was negatived—yeas 48, nays 87.

The motion to strike out the second section recurred, and the question being taken, it was also negatived—yeas 65, nays 68.

Mr. F. JOHNSON then moved so to amend that part of the section which relates to the increase of postage on letters, as to extend it only to such as are conveyed over seven hundred and forty miles. The motion was agreed to.

Mr. SANDERS further moved to amend the section, by striking out all that part of the section which proposes an increase of postages on newspapers; which was also agreed to—yeas 70.

Mr. SERGEANT moved to amend the bill, by striking out that part of the section which proposes an increase of postage on magazines and pamphlets; and the question being taken thereon, it was negatived—yeas 55, nays 65.

A verbal amendment was also agreed to at the suggestion of Mr. TUCKER, of Virginia.

Mr. REED, of Massachusetts, further proposed a proviso to limit the postage on magazines and pamphlets, to one and an half cents per sheet, within the State; which was also negatived.

Mr. CAMPBELL, of Ohio, proposed an additional section, the object of which was, that when two printers were resident in any one town, no mail contractor should be allowed to convey the newspapers of the one, and refuse to carry those of the other. The section was adopted.

The ninth section, exempting newspapers to printers, being under consideration—

Mr. CHAMBERS moved to strike out the words that limit the selection to six from one State; which was agreed to.

Mr. SANDERS moved to strike out the whole section; but the motion was negatived, without a division.

The tenth section, for the punishment of the abuse of the privilege of franking, being under consideration—

Mr. RHEA moved to strike out the whole section; but that motion was also negatived—ayes 34.

Mr. BASSETT moved to strike out the proviso to the tenth section, providing penalties for violating the law respecting franking, which exempts the members of Congress from the penalties prescribed by the section. The question being taken thereon, it was negatived—ayes 42, noes 75.

Mr. TOMLINSON moved to strike out the whole section as amended, and after a few remarks on the question by Messrs. TOMLINSON, F. JOHNSON, and RHEA, it was put and carried.

Mr. SANDERS submitted the following as an additional section:

And be it further enacted, That, in the settlement of the Post Office accounts, the Comptroller of the Treasury shall allow the sum expressed in the several contracts; and if, from any cause, any contracts shall be changed, no larger sum shall be allowed than the amount expressed in the first contract, until a second contract shall be entered into; and it shall be the duty

of the Comptroller to deliver over to the Auditor, whose duty it is to pass on the Post Office accounts, the duplicates of all such accounts as may be lodged with him for settlement.

The amendment was supported by the mover, and opposed by Messrs. F. JOHNSON, COOK, BARBER of Ohio, and TOMLINSON; when the question was taken, and the motion was negatived.

Mr. ROCHESTER moved a reconsideration of the vote, by which the House refused to strike out the ninth section, limiting the reception of newspapers by printers free of postage to fifty in the whole.

The motion was supported by Messrs. ROCHESTER, BUCHANAN, and RHEA, and opposed by Mr. FULLER.

Mr. F. JOHNSON expressed his acquiescence (as the section had been amended) in the motion to reconsider; and, the question being taken, it was decided in the affirmative—ayes 69, noes 34.

The question of striking out that section was then taken and carried—ayes 70.

Mr. BUTLER moved an amendment to the second section, the purport of which was to place the responsibility of making the contracts in the several States on the Postmaster General exclusively, instead of allowing persons in the States to decide the question of who is entitled to the contracts, subject to the approbation only of the Postmaster General.

The motion was supported by the mover, and opposed by Mr. F. JOHNSON, and negatived.

Mr. RHEA moved to strike out the whole of the second section, and he supported the motion in a speech of considerable length; but, before the question was taken thereon—

Mr. COOK moved to amend, by striking out that clause of the section which provides that the persons in the several States, under the instructions of the Postmaster General, who shall "determine upon the person or persons who may be entitled to the contracts for each route or routes," with the view of proposing a further amendment that should render the contract incomplete until it had received the sanction of the Postmaster General.

The motion was supported by the mover, and opposed by Mr. F. JOHNSON; and, being put, was negatived.

Mr. RHEA's motion to strike out the whole section was then put and lost, and the bill was ordered to be engrossed for a third reading; and then the House adjourned.

THURSDAY, May 2.

On motion of Mr. BLACKLEDGE, the Committee of the whole House, to which is committed the bill fixing the compensation of the Commissioner of the Public Buildings, were discharged, and the bill was committed to the Committee of the Whole on the state of the Union.

A motion was made by Mr. METCALFE that the Committee of the Whole, to which is committed the bill of this House to regulate the intercourse with the Indian tribes within the United States and territories thereof, as also the bill of the Sen-

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ate to abolish the United States' trading establishment with the Indian tribes, be discharged from the consideration thereof; and, the question thereon being taken, it passed in the affirmative, and the said bills were committed to a Committee of the whole House on the state of the Union.

The SPEAKER laid before the House a letter from the Board of Health, of the City of Washington, signed by Henry Hunt, their President, representing the pernicious effects arising from the stagnant waters on the low grounds west of the Capitol, and bordering on the waters of Tiber creek, which grounds are the property of the United States, and asking of Congress the adoption of such measures as shall be calculated to remove the same; which letter was ordered to lie on the table.

An engrossed bill from the Senate to alter the times of holding the District Courts in the District of New Jersey, was read twice, and subsequently read a third time, and passed.

An engrossed bill to provide for the further disposal of the public lands in Mississippi, was read a third time, and passed.

An engrossed bill "further to regulate the Post Office Department," was read a third time, when Mr. H. NELSON called for the yeas and nays, which were thereupon ordered, and the bill was passed—yeas 91, nays 56.

An engrossed bill to extend the charter of the Mechanics' Bank in Alexandria, was read a third time, and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act vesting in the State of Pennsylvania the right of the United States to all fines, assessed for the non-performance of militia duty, during the late war with Great Britain; An act to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved 30th March, 1802; and An act in addition to the "act concerning navigation; in which bills they ask the concurrence of this House.

Mr. WILLIAMS, of North Carolina, moved that the Committee of Claims be discharged from the further consideration of all reports and other matters before them; which was agreed to.

Mr. FULLER submitted the following joint resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States—which, when ratified by the Legislatures of three-fourths of the several States, shall be valid to all intents and purposes, as part of the Constitution, viz:

The compensation of the President of the United States, of the Vice President, and the members of the Senate and House of Representatives, shall be fixed by law at the first session of every Congress elected next after the Representatives shall be apportioned among the several States, according to a new census, taken pursuant to the Constitution, and shall not be

increased or altered for the term of ten years, nor until after the census and apportionment next succeeding; but no increase or alteration of such compensation shall take effect till after the term shall have expired for which the persons holding the offices or stations aforesaid at the time of such increase or alteration, shall have been respectively elected.

The resolution was ordered to lie on the table.

Mr. WRIGHT moved that the House do now consider the bill in relation to the taking up of fugitive slaves, &c.; but the House refused to consider the same.

On motion of Mr. KENT, the Committee of the Whole were discharged from the further consideration of the bill to extend the charter of the Mechanics' Bank of Alexandria, and the same being taken up by the House, it was, without debate, ordered to be engrossed for a third reading.

On motion of Mr. F. JOHNSON, the Committee of the Whole were discharged from the further consideration of the bill to establish certain post roads, and to discontinue others; and, the same being before the House, was taken up by sections for amendment.

As usual on this bill, which annually comes before the House, there was a good deal of debate on the various propositions to amend it.—which, however interesting to post office neighborhoods, is not of sufficient general interest to be reported.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In the Message to both Houses of Congress at the commencement of their present session, it was mentioned that the Government of Norway had issued an ordinance for admitting the vessels of the United States and their cargoes into the ports of that Kingdom upon the payment of no other or higher duties than are paid by Norwegian vessels, of whatever articles the said cargoes may consist, and from whatever ports the vessels laden with them may come.

In communicating this ordinance to the Government of the United States, that of Norway has requested the benefit of a similar and reciprocal provision for the vessels of Norway and their cargoes, which may enter the ports of the United States.

This provision being within the competency only of the legislative authority of Congress, I communicate to them, herewith, copies of the communications received from the Norwegian Government in relation to the subject, and recommend the same to their consideration.

JAMES MONROE.

WASHINGTON, May 1, 1822.

The Message, with the accompanying documents, were referred to the Committee on Commerce.

REPORTS OF DEBATES IN CONGRESS.

Mr. WARFIELD delivered in the following report:

The committee to whom was referred the resolution instructing them to report the best mode, in their opinion, of giving to the public a full and correct statement of the debates and proceedings of this House, report: That they have taken the same into consideration, and are of opinion that the Government of the United

States being a Government which essentially depends upon public opinion, it is a consideration of the first importance that the course pursued by the immediate Representatives of the people in Congress should be impartially presented to the public view. Whether it will be practicable to give a minute account of the debates and proceedings of Congress on all the various subjects that may arise, your committee will not undertake to decide. But they consider a rigid adherence to fact in whatever is published of the proceedings of Congress as indispensable; that whenever a part of a debate is published, the whole should be published, as well the arguments on the one side of the question as the arguments on the other side, and the proceedings faithfully given to the public. Your committee therefore submit the following resolution:

Resolved, That the Speaker be requested to receive, during the approaching recess of Congress, proposals for reporting and publishing from day to day a correct account of the debates and proceedings of the House of Representatives, and to submit the same to the consideration of the House at the commencement of the next session.

Mr. LITTLE moved to lay the resolution on the table.—The motion was negatived.

The question being then stated on agreeing to the report—

Mr. LITTLE said he was averse to any measure, not indispensable, which necessarily involved any considerable expense to the Government. Such, he conceived, would be the effect of adopting this resolution. What, he asked, would be the expense which a resort to the measure proposed by this resolution would involve? We had a sample, the other day, said he, of a report of one day's proceedings in this House, and that not a full report, which may give an idea of the extent which must be given to reports of our proceedings, if every thing is to be reported. Mr. L. said he was disposed, for his part, to leave this matter as it now stands—that those who are admitted to seats in this House shall go on and take such parts of the proceedings as may be acceptable to the public. It was known, that in case of long arguments on any question before the House, gentlemen sometimes prepare their speeches for publication. If they chose to do so, they had a right to do it, and they will always find access to the press, without reference to the wishes of this House upon the subject. Mr. L. said he did not believe that the country would be disposed to go to the expense of twenty or thirty thousand dollars per year for the publication of the debates at large. No benefit, certainly, would arise from it, and it would be a waste of the public money; and, Mr. L. said, he was not disposed to lend his name to a resolution which would at least give to the Speaker considerable trouble in inviting and receiving proposals, and to the House trouble in considering them. Mr. L. then moved to postpone the report to Monday next.

Mr. WARFIELD hoped the consideration of the report would not be postponed. As to the idea that the proposed publication of debates would be expensive, it was certain that the committee had no such idea in contemplation. A waste of public money! did the gentleman say?

[The SPEAKER here remarked, that the question of postponement did not admit of debate on the merits of the report.]

Mr. CAMPBELL, of Ohio, again moved to lay the report on the table.

And the report was then ordered to lie on the table—ayes 71.

MILITARY APPROPRIATION BILL.

Mr. HARDIN proposed that the House proceed to the consideration of the Compensation bill—but, on motion of Mr. SMITH, of Maryland, the bill making further appropriations for the military service of the United States for the year 1822, was again taken up for consideration.

The amendments of the Committee of the Whole were concurred in by a general vote, subject to specific exceptions that were named.

Mr. COCKE proposed to disagree to the appropriation of \$50,000 for Fort Calhoun; and he stated a variety of considerations in support of the proposition.

The question of agreeing to the report of the Committee of the Whole was then put, and carried—ayes 69.

Mr. SMITH, of Maryland, proposed to add to the appropriations for the Indian department, for the pay of sub-agents, the sum of \$9,538.

Mr. VANCE said the sum proposed was not sufficient to pay for so many sub-agents as the law provided for, and he moved the sum of \$11,338. The appropriation was agreed to.

Mr. SMITH, of Maryland, moved to amend the appropriation for the contingencies of the Indian Department, by striking out \$40,000, and inserting in lieu thereof \$75,000.

Mr. VANCE proposed to make this disbursement of contingencies as specific as we can. He, therefore, moved the sum of \$14,992 for interpreters.

Mr. VANCE finally expressed his acquiescence in the proposition of Mr. SMITH, of Maryland, and after further remarks by Mr. FLOYD, Mr. VANCE, and Mr. J. S. JOHNSTON, the question was put, and the proposition of Mr. SMITH was agreed to, and the amendment, as amended, was adopted.

Mr. PATTERSON excepted to an agreement with the Committee of the Whole in the appropriation of about \$19,000 for the payment of the expenses incurred by court martials in the State of New York. A very spirited debate ensued, in which the disagreement was advocated by Mr. PATTERSON and Mr. MCCOY, and opposed by Mr. CAMBRELENG, Mr. ROCHESTER, Mr. WALWORTH, Mr. SMITH, of Maryland, and Mr. COLDEN, when, on motion of Mr. PATTERSON, the question was taken by yeas and nays, and decided in the affirmative—yeas 134, nays 15, as follows:

YEAS—Messrs. Alexander, Archer, Baldwin, Ball, Barber of Connecticut, Barber of Ohio, Barstow, Baylies, Blackledge, Blair, Borland, Brown, Buchanan, Burton, Cambreleng, Campbell of New York, Campbell of Ohio, Cannon, Cassidy, Chambers, Colden, Condict, Conkling, Conner, Cook, Crafts, Crudup, Cushman, Cuthbert, Dane, Darlington, Denison, Eddy, Edwards of Con., Edwards of Pennsylvania, Edwards of North

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Carolina, Eustis, Farrelly, Findlay, Fuller, Gebhard, Gist, Gorham, Gross, Hall, Hawks, Hill, Hobart, Holcombe, Hubbard, Jackson, F. Johnson, J. T. Johnson, J. S. Johnston, Jones of Virginia, Jones of Tennessee, Kent, Keyes, Kirkland, Leftwich, Lincoln, Little, Long, McCarty McDuffie, McLane, McNeill, McSherry, Mallary, Matlack, Mattocks, Mercer, Metcalfe, Milnor, Mitchell of Penn., Mitchell of South Carolina, Moore of Pennsylvania, Moore of Alabama, Morgan, Murray, Neale, Nelson of Virginia, Newton, Patterson of Pennsylvania, Phillips, Pierson, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Maryland, Reid of Georgia, Rhea, Rich, Rochester, Rogers, Ruggles, Russ, Russell, Sanders, Sergeant, S. Smith, Arthur Smith, W. Smith, A. Smyth, Sterling of Connecticut, Sterling of New York, Stewart, Stoddard, Swan, Swearingen, Tatnall, Taylor, Thompson, Tod, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Tucker of Virginia, Upham, Vance, Van Wyck, Walworth, Warfield, Whipple, Williamson, Wilson, Wood, Woodcock, Woodson, and Worman.

NAYS—Messrs. Bassett, Butler, Cocke, Dickinson, Floyd, Gilmer, McCoy, Matson, Moore of Virginia, Nelson of Massachusetts, Nelson of Maryland, Patterson of New York, Williams of North Carolina, Williams of Virginia, and Wright.

Mr. RHEA moved to amend the proposed appropriation for an indemnity to the State of Georgia, by a provision to include also the State of Tennessee, but the motion was negatived.

Mr. COCKE moved to strike out the appropriation for Fort Calhoun, (it being now in order, as an affirmative proposition,) and he again adverted to the considerations that should influence a decision upon it.

Mr. BUTLER was in favor of the motion, because it would operate as a suspension, though not a decision upon the contract, and the public would not suffer by the delay.

The motion to strike out was further supported by Messrs. CAMPBELL of Ohio, MALLARY, FULLER, F. JONES, COCKE, and CUTHBERT, and opposed by Messrs. BASSETT, McDUFFIE, FARRELLY, A. SMYTH, and BALDWIN; but at six o'clock, and before any question was taken thereon, the House adjourned.

FRIDAY, May 3.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for Indian annuities; and the various blanks therein having been filled, as recommended by the Committee of Ways and Means, the Committee rose and reported the same as amended, which was concurred in by the House, and the bill was ordered to be engrossed for a third reading.

The House then went into a Committee of the Whole on the state of the Union, on the bill from the Senate to abolish the United States trading establishment with the Indian tribes.

An explanation of the bill was made by Mr. METCALFE, and the same having been gone through with, by sections, without amendment, the Committee rose and reported the bill to the House, and it was ordered to a third reading.

The Compensation bill was then called up; and, on motion of Mr. SANDERS, it was ordered to be laid on the table, without a division, by a large majority.

On motion of Mr. BASSETT, the House then again went into a Committee of the Whole on the state of the Union, on the bill concerning the disbursement of public money. The bill having been read, and the first section, prohibiting all advances of public money, being under consideration—

Mr. BALDWIN moved an amendment, the purport of which was, to except from the operation of the section the Commissary General of Purchases; and, after a few remarks by Messrs. BALDWIN, COCKE, and BASSETT, the Committee rose and reported that they had made some progress, but had come to no determination thereon.

The House then went into a Committee of the Whole on the bill to continue in force "An act declaring the assent of Congress to acts of the State of South Carolina, authorizing the city of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports, and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's;" and, after a brief consideration thereof, the Committee rose and reported the same to the House, where the report of the Committee of the Whole was concurred in, and the bill was ordered to be engrossed for a third reading.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act for the disposition of certain special bank deposits;" and "An act to relieve the people of Florida from the operation of certain ordinances;" in which bills they ask the concurrence of this House.

Mr. WOODCOCK moved that the Committee of the Whole be discharged from the further consideration of the bill for the payment of certain certificates, but the House negatived the motion.

Mr. SIBLEY moved that the Committee of the Whole be discharged from the further consideration of the bill for the establishment of an additional land office in the Territory of Michigan. The motion was advocated by Mr. SIBLEY and Mr. RANKIN, and opposed by Mr. VANCE; and the question being taken, the motion was negatived.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I herewith transmit to Congress copies of letters received at the Department of State from the Minister of Great Britain, on the subject of the duties discriminating between imported, rolled, and hammered iron.

I recommend them particularly to the consideration of Congress, believing that, although there may be ground for controversy with regard to the application of the engagements of the treaty to the case, yet a liberal construction of those engagements would be compatible at once with a conciliatory and a judicious policy.

JAMES MONROE.

WASHINGTON, May 1, 1822.

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Department of State.

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The Message, with the accompanying documents, was referred to the Committee of Ways and Means, and ordered to be printed.

A bill from the Senate, transferring to the State of Pennsylvania the right of the United States to the proceeds of the militia fines incurred during the late war within said State, was twice read; and, after adopting an amendment proposed by Mr. SERGEANT as an additional section, Mr. COLDEN moved to insert the words "New York," so as to extend the provision to that State. But, after some conversation upon the subject, Mr. COLDEN withdrew his motion. And, after some further discussion, in which Mr. SERGEANT, Mr. McCoy, and Mr. HARRISON, took part, the bill was ordered to be engrossed for a third reading, and was subsequently read a third time, and passed.

A bill from the Senate to amend the act "to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," was read twice, and committed to the Committee on Indian Affairs.

The bill from the Senate in addition to the act, entitled "An act concerning trade and navigation," was read twice, and committed to the Committee on Commerce.

The engrossed bill to establish certain roads and to discontinue others was read a third time, and passed.

Mr. POINSETT, from the joint Library Committee, reported unfavorably upon the petition of John Melish, asking for encouragement in making a chart of the Mississippi and Ohio rivers; which was concurred in.

Mr. POINSETT, from the same committee, reported unfavorably upon the proposition to purchase, for the use of Congress, a number of copies of Seybert's Statistics; which report was concurred in.

DEPARTMENT OF STATE.

Mr. WOOD, from the Committee on the Expenditures in the Department of State, made the following report thereon:

The committee on so much of the public accounts and expenditures as relates to the Department of State, report:

That the manner in which the moneys appropriated to the Department of State, or made subject to the control of the Secretary, are drawn and expended, will be seen by a communication made to the committee by the Secretary, and which is annexed to this report.

It will be seen by the estimate of the Secretary of the Treasury, that most of the appropriations made to this Department for the year 1821, which have been drawn and expended, are specific in their nature and amount. The committee therefore have directed their attention principally to an examination of the accounts of the expenditures of the contingent appropriations for the year past, as far as they deemed it necessary, and the same was practicable.

None of the appropriations for the contingent expenses of foreign intercourse, intercourse with the Barbary Powers, and for the relief of seamen, made at the last session of Congress, have been drawn or expended. The balances of former appropriations have been more than sufficient for their expenses.

Of the contingent expenses of our Ministers abroad, entire returns have only been received from the Minister at London. The contingent expenses of that mission for the year past, amounted to the sum of nine hundred forty-four dollars and sixty-one cents; the objects of expenditure are such as are incident to the office, and are inconsiderable in number and amount. The accounts are regularly kept, and certified by the Secretary of Legation, and the Committee were informed at the Treasury, that the accounts of all the Ministers of the United States are required to be kept and certified in the same manner.

The moneys appropriated for the relief of distressed American seamen in foreign countries, are expended by the American consuls, and the accounts are regularly entered, receipts are taken and witnessed, and the whole certified by the consul.

The expenditure of the moneys appropriated for the contingent expenses of the Department, is confided to one of the clerks of the Department. These contingences embrace the advertising, printing, and distribution of the laws of the United States; books and maps for the use of the Department; newspapers for our Ministers in foreign countries; the translation of foreign languages; stationery, printing, and necessities for that office, and for the Patent Office.

The committee have examined the accounts of these expenditures, &c., &c., with the vouchers for the said accounts, as far as they judged necessary.

The objects of expenditure appear to be such as are necessary to the execution of the duties of the Department, and must therefore be authorized by law. The expenditure is within the appropriation, and is supported by sufficient vouchers. The accounts are regularly kept; the expenditures appear to be made with fidelity and economy, and the committee are unable to suggest any subject of retrenchment compatible with the public service.

The report was read; and, on motion of Mr. TOMLINSON, was ordered to be laid on the table.

JOHN MITCHELL.

Mr. SERGEANT from the Committee on the Judiciary, reported a bill for the relief of John Mitchell, which was twice read. Mr. S. moved, owing to the lateness of the session, that the bill be now ordered for a third reading.

On this subject a short debate took place, in the course of which the bill was supported by Mr. SERGEANT and Mr. BURTON, and opposed by Mr. COCKE and Mr. NELSON, of Maryland.

The case of Mr. Mitchell was stated to be one of peculiar hardship; that he is now upwards of seventy years of age, and has been, in various stations, a faithful public servant; that, whilst agent for prisoners of war at Halifax, during the late war, a bill drawn by him upon the Government was charged to him, but, owing to the failure of the merchant who bought it, was never realized, and in consequence Mr. Mitchell stands charged for moneys he never received. Mr. M. now a clerk in an office here, and without other means of support, asks that an exception be made in his favor, for the present, against the general provision of the appropriation law, which allows no person to draw money for salary as a public officer, who stands charged as a debtor on the books of the

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Military Appropriation Bill.

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Treasury. This, it was argued, it would be no more than just to allow in the present case.

On the other hand it was argued, that the case of Mr. Mitchell would be embraced by the bill, now depending, which provides for the settlement, on principles of equity, of all accounts arising out of the late war. Under this provision, admitting his own statement to be entirely correct, Mr. M. would be soon able to liquidate the charge against him, which was all, it was contended, that he could reasonably desire. The provision of the appropriation bill, against which he appeals to Congress, was viewed as one which was of much importance, and ought to be considered the settled policy of the Government, not to be relaxed, or to be allowed to be subject to exceptions, but in all cases to be rigorously enforced, &c.

Finally, on motion of Mr. CAMPBELL, of Ohio, the bill was ordered to be laid on the table—yeas 64, nays 54.

MILITARY APPROPRIATION BILL.

The House having resumed the consideration of the bill, making certain appropriations for the military service, the question recurred upon the motion of Mr. COCKE, to strike out the appropriation of fifty thousand dollars for Fort Calhoun.

Mr. COLDEN, after a few remarks to show the necessity of acting on the bill without further debate, called for the previous question.

The call was sustained by the House—ayes 73, noes 49.

The previous question was then put—"Shall the main question now be put?" and was decided in the affirmative.

The effect of this decision being to set aside all motions to amend—

The main question was stated, viz: "Shall the bill be engrossed and read a third time?"

Some questions having been proposed to the Speaker as to the effect of the decision that had been made by the House, and some gentlemen seeming to have misunderstood its bearing—

Mr. HENDRICKS, who had voted in the affirmative, moved a reconsideration of the vote for taking the previous question.

Mr. NELSON, of Maryland, called for the yeas and nays upon the question, but the House did not affirm the call; and the question upon Mr. HENDRICKS's motion being put, it was negatived by a large majority.

Mr. FLOYD expressed a disposition to propose an amendment; but the Speaker decided that no debate on the subject was in order; and Mr. FLOYD observed, thereupon, that, if he was precluded from making the amendment, he should be constrained to vote against the bill.

The question of engrossment was then put, and decided in the affirmative—yeas 131, nays 20, as follows:

YEAS—Messrs. Alexander, Ball, Barber of Connecticut, Barstow, Bassett, Bateman, Blackledge, Blair, Borland, Breckenridge, Brown, Burton, Cambreleng, Campbell of New York, Cassedy, Colden, Condict, Cook, Crudup, Cushman, Cuthbert, Darlington, Denison, Dickinson, Durfee, Dwight, Eddy, Ed-

wards of Connecticut, Edwards of Pennsylvania, Farrelly, Findlay, Fuller, Gebhard, Gilmer, Gist, Gorham, Gross, Hall, Hardin, Harvey, Hendricks, Herrick, Hill, Hobart, Holcombe, Hooks, Hubbard, Jackson, J. T. Johnson, J. S. Johnson, Jones of Virginia, Jones of Tennessee, Kent, Lathrop, Leftwich, Litchfield, Little, McCarty, McCoy, McDuffie, McLane, McNeill, McSherry, Matson, Mattocks, Mercer, Milnor, Mitchell of Pa., Montgomery, Moore of Pa., Moore of Virginia, Moore of Ala., Morgan, Murray, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, Newton, Overstreet, Patterson of New York, Patterson of Pennsylvania, Phillips, Pier-son, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Poinsett, Rankin, Reed of Massachusetts, Reed of Maryland, Rhea, Rich, Rochester, Rogers, Russ, Sanders, Sawyer, Sergeant, S. Smith, Arthur Smith, W. Smith, Alexander Smyth, J. S. Smith, Sterling of Connecticut, Sterling of New York, Stewart, Swan, Swearingen, Tatnall, Taylor, Thompson, Tod, Tracy, Trimble, Tucker of Virginia, Tucker of South Carolina, Upham, Vance, Walworth, Warfield, Whipple, White, Williams of Virginia, Williamson, Wilson, Wood, Woodcock, Woodson, Wor-man, and Wright.

NAYS—Messrs. Baylies, Burrows, Butler, Campbell of Ohio, Cannon, Chambers, Cocke, Crafts, Edwards of North Carolina, Eustis, Floyd, F. Johnson, Keyes, Kirkland, Long, Mallary, Matlack, Metcalf, Ross, and Williams of North Carolina.

COMMISSIONER OF PUBLIC BUILDINGS.

The House then went into a Committee of the Whole on the state of the Union, on the bill fixing the compensation of the Commissioner of the Public Buildings. The bill proposed to reduce the compensation of that officer from two thousand to one thousand five hundred dollars; and after a few explanatory observations by Mr. BLACKLEDGE—

It was proposed by Mr. COCKE to add a section, limiting the compensation of the Architect of the Public Buildings to one thousand five hundred dollars; but, on the suggestion of Mr. MALLARY, he modified the same by proposing two thousand instead of one thousand five hundred dollars. The motion was opposed by Mr. Wood and Mr. ALEXANDER SMYTH, and supported by Mr. COCKE and Mr. MALLARY, when the question was taken and negatived.

Mr. HOBART proposed an amendment, requiring the Commissioner to give bonds, with surety, for the faithful discharge of his duty, which was agreed to; and, on motion of Mr. COCKE, a proviso was appended thereto, providing that no more money shall, at any time, be placed in the hands of that officer, than may be covered by the amount of the bond.

Mr. WALWORTH moved an amendment that no allowances should be made to the said Commissioner for clerk hire, and the question being put thereon, it was agreed to.

Mr. HOBART moved to strike out the second section of the bill as being unnecessary; but the motion was negatived.

The Committee then rose and reported the bill, and the same, with the amendments thereto, were concurred in by the House, excepting that amend-

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ment which refuses to the Commissioner a clerk, on which there was some conversation between Messrs. PIERSON, WOOD, BLACKLEDGE, BROWN, NELSON, of Massachusetts, and WHIPPLE.

Mr. F. JONES moved to strike out the two first sections of the bill after the enacting clause, so as to leave the salary of the Commissioner two thousand instead of one thousand five hundred dollars; which was negatived, and the bill was then ordered for a third reading.

The House then, on request of Mr. BALL, went into a Committee of the Whole on the bill for the relief of William Henderson, and, after considering the same, it was reported to the House, and concurred in, and ordered to be engrossed for a third reading. And then, after a vain attempt to procure a recess for an evening sitting, the House adjourned.

SATURDAY, May 4.

A bill from the Senate to relieve the people of Florida from the operation of certain ordinances, was read twice, and referred to the Committee on the Judiciary.

A bill from the Senate to abolish the United States' Trading Establishment with the Indian tribes, was read a third time.

Mr. MILNOR remarked, that, as this was a bill of which he considered the policy to be, to say the least of it, extremely doubtful, and, as it was one of great importance, he should ask for the yeas and nays upon its passage. The question being put, the call for the yeas and nays was not sustained; and the bill was passed without debate or division.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled An act for the relief of certain insolvent debtors; with an amendment, in which they ask the concurrence of this House.

The bill from the Senate, in addition to the act "concerning navigation," and also to authorize the appointment of deputy collectors (the title of the bill having been amended so to read,) was read a third time and passed.

The SPEAKER laid before the House a report of the Secretary of the Treasury in relation to the official transactions of John Brahan, late receiver of public moneys at Huntsville, in the State of Alabama, as required by the resolution of this House, of the 18th ultimo; which report was ordered to lie on the table.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of certain insolvent debtors," was read, and agreed to by the House.

The House resolved itself into a Committee of the Whole on the bill for the relief of Thaddeus Mayhew; the bill for the relief of the representatives of John B. Dash; and the bill for the relief of Alexander Roddy; and, after some time spent therein, the Committee reported the first and last mentioned bills without amendment, and that for the relief of the representatives of John B. Dash, with an amendment, which was read, and concurred in by the House, and that, together with

the bill for the relief of Alexander Roddy, were ordered to be engrossed, and severally read a third time to-day.

On motion of Mr. JOHNSTON, of Louisiana, the bill for the relief of Thaddeus Mayhew was laid on the table.

Mr. NEWTON, of Virginia, from the Committee of Commerce, to whom was referred a bill from the Senate, in addition to the act concerning navigation, reported the same without amendment; to which sundry amendments were subsequently proposed by Mr. N. and adopted, and the amendments were ordered to be engrossed, and the same, with the bill, were ordered for a third reading this day. [The principal amendment moved by Mr. N. provides that the 3d, 4th, and the 7th sections of the act of the 3d of March, 1817, to continue in force the act "further to provide for the collection of duties on imports and tonnage," passed in 1815, shall be revived and made permanent.]

Mr. HENDRICKS moved that the Committee of the Whole be discharged from the further consideration of the bill authorizing the location of certain school lands in the State of Indiana, which was agreed to, and, after a few remarks by Mr. HENDRICKS and Mr. FLOYD, the bill was ordered to be engrossed for a third reading.

Mr. COCKE moved that the House do now take into consideration the bill to reduce and fix the Military Peace Establishment; but the House refused to consider the same—ayes 49, noes 54.

The engrossed bill making further appropriations for the military service of the United States for the year 1822, was read a third time.

Mr. WRIGHT rose and said, he voted against the appropriation of the nineteen thousand dollars to pay the militia courts martial in New York during the late war; and he felt it due to himself, he said, briefly to assign the reason. These culprits were moved and seduced by the instigation of the devil and the Hartford Convention, treasonably to desert the standard of their country, and not to do their duty. They themselves ought to have paid the cost. We have no such charge in Maryland, and it may be a question whether the court martial ought to be paid at all, as I do not understand that any of these culprits suffered death.

The bill was then passed, and sent to the Senate for concurrence.

The engrossed bill to provide for annuities to certain Indian tribes; a bill fixing the compensation of the Commissioner of the Public Buildings; a bill for the relief of William Henderson; a bill to authorize the location of certain school lands in the State of Indiana, were read a third time, passed, and sent to the Senate for concurrence.

The bill from the Senate to amend the act to regulate the trade and intercourse with the Indian tribes and to preserve peace on the frontiers was read a third time and passed.

Mr. CONNER moved that the Committee of the Whole be discharged from the further consideration of a bill for the relief of the securities of John H. Alley; but the motion was refused, as was a motion of a similar description by Mr.

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Letter of Mr. Russell.

H. OF R.

DENISON, in relation to the Pennsylvania judicial district bill.

The House then went into Committee of the Whole on a bill for the relief of David Cummings, and reported the same to the House without amendment, and the bill was ordered for a third reading.

The House then again resolved itself into a Committee of the Whole on a bill for the relief of William Bartlett and others; on a bill for the relief of Isaac Collier; and a bill for the relief of John M. Moody and Samuel Moody, and reported the same to the House, respectively, without amendment; and the said bills were ordered to be engrossed for a third reading, and were subsequently read a third time, passed, and sent to the Senate for concurrence.

Mr. HEMPHILL moved to postpone the orders of the day preceding the bill in relation to surveys, &c. of roads and canals, but the House refused to agree to this motion.

The House then went into a Committee of the Whole on a bill for the relief of Nathan Branson, and a bill for the relief of Trapmaun, Jahucke & Co. and reported the same to the House, respectively, without amendment, and the said bills were severally ordered to be engrossed for a third reading.

The House then went into a Committee on a bill to repeal in part an act passed by the State of Maryland respecting the sale of water lots in Georgetown; and a bill to incorporate the inhabitants of Georgetown. To the former bill an amendment was made, on motion of Mr. KENT, and the Committee having gone through with both bills, rose and reported the same to the House, and, being there concurred in, they were both ordered to a third reading.

Two or three other private bills were then passed through a Committee of the Whole, and ordered to be engrossed for a third reading.

The House then went into Committee of the Whole on the bill for the relief of Anthony Kennedy; a bill for the relief of John Byers; and a bill for the relief of the heirs of Edward McCarty, deceased, and reported the two former to the House without amendment where they were concurred in, and severally ordered to be engrossed for a third reading; and the latter bill, having been corrected in its phraseology, was also reported, and gone through with, and ordered to be engrossed for a third reading.

The House then went into a Committee of the Whole on a bill for the relief of James Ross; a bill for the relief of the legal representatives of John Girault; and a bill for the relief of William N. Earle; and reported the two latter bills to the House, without amendment, and also reported progress on the bill for the relief of James Ross, on which the Committee had leave to sit again. The report of the Committee of the Whole in the cases of William N. Earle and the legal representatives of John Girault, were concurred in, and the said bills were severally ordered to be engrossed for a third reading.

The House then went into a Committee of the

Whole on a bill for the relief of Robert Purdy; a bill for the relief of Charles A. Swearingen; and a bill for the relief of Solomon Prevost. The said bills having been gone through with, were reported to the House respectively without amendment, where they were concurred in, and ordered to be engrossed for a third reading.

The House then again went into a Committee of the Whole on a bill for the relief of John Pellet; a bill for the relief of the legal representatives of John Guthrie, deceased; and a bill for the relief of John Crute; and, after an amendment to the bill for the legal representatives of John S. Guthrie, deceased, at the suggestion of Mr. LATHROP, the Committee rose and reported the said bills, which were concurred in by the House, and ordered to be engrossed for a third reading.

The House then went into a Committee of the Whole on the bill for the relief of the legal representatives of Marie Therese, and on the bill for the relief of Sally Vance, and no amendments having been offered thereto, the same were reported to the House, concurred in, and ordered to be engrossed for a third reading.

The following engrossed bills were read a third time and passed, viz: A bill for the relief of Trapmaun, Jahucke & Co.; a bill for the relief of Alexander Roddy; a bill for the relief of the legal representatives of John B. Dash; a bill for the relief of Nathan Branson; a bill for the relief of David Cummings.

The House then went into a Committee of the Whole on a bill for the relief of certain persons who have paid duty on goods imported into Castine, and on a bill for the relief of William Whitehead and others. No amendments having been offered thereto, the same were reported to the House, and on motion, both bills were ordered to be laid on the table.

Mr. TOMLINSON moved to reconsider the bill for the relief of certain persons who have paid duties on goods imported into Castine; but the motion was negatived.

The House then went into a Committee of the Whole on a bill for the relief of Reuben Hickman and Fielding Hickman, and on the bill for the relief of William Biggs, and, having gone through with the same, they were reported to the House. The bill for the relief of William Biggs, on motion of Mr. RANKIN, was ordered to be laid on the table.

On motion of Mr. GILMER, the name of Joshua Cannon was inserted, next before the name of Reuben Hickman, in the bill for the relief of Reuben and Fielding Hickman. On the question of ordering the bill to a third reading, it was supported by Mr. TRACY, Mr. LITTLE, Mr. HARDIN, and Mr. MATROCKS, and opposed by Mr. EDWARDS of North Carolina, and Mr. ALEXANDER SMYTH, when the question was taken, and the bill was ordered to be engrossed for a third reading.

LETTER OF MR. RUSSELL.

A Message, received from the PRESIDENT OF THE UNITED STATES yesterday, was read, and is as follows:

H. OF R.

Indian Trade.

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To the House of Representatives of the United States.

In compliance with a resolution of the House of Representatives, of the 19th of April, requesting the President "to cause to be communicated to the House, if not injurious to the public interest, any letter which may have been received from Jonathan Russell, one of the Ministers who concluded the Treaty of Ghent, in conformity with the indications contained in his letter of 25th December, 1814," I have to state, that, having referred the resolution to the Secretary of State, and it appearing, by a report from him, that no such documents had been deposited among the archives of the department, I examined and found among my private papers a letter of that description, marked, "private" by himself. I transmit a copy of the report of the Secretary of State, by which it appears that Mr. Russell, on being apprized that the document referred to by the resolution had not been deposited in the Department of State, delivered there "a paper purporting to be the duplicate of a letter written by him from Paris, on the 11th of February, 1815, to the then Secretary of State, to be communicated to the House, as the letter called for by the resolution."

On the perusal of the document called for, I find that it communicates a difference of opinion between Mr. Russell and a majority of his colleagues, in certain transactions which occurred in the negotiations at Ghent, touching interests which have been since satisfactorily adjusted by treaty between the United States and Great Britain. The view which Mr. Russell presents of his own conduct, and that of his colleagues, in those transactions, will, it is presumed call from the two surviving members of that mission, who differed from him, a reply, containing their view of those transactions, and of the conduct of the parties in them, and who, should his letter be communicated to the House of Representatives, will also claim that their reply should be communicated in like manner by the Executive—a claim which, on the principle of equal justice, could not be resisted. The Secretary of State, one of the Ministers referred to, has already expressed a desire that Mr. Russell's letter should be communicated, and that I would transmit, at the same time, a communication from him respecting it.

On full consideration of the subject, I have thought it would be improper for the Executive to communicate the letter called for, unless the House, on a knowledge of these circumstances, should desire it; in which case the document called for shall be communicated, accompanied by a report from the Secretary of State, as above suggested. I have directed a copy to be delivered to Mr. Russell, to be disposed of as he may think proper, and have caused the original to be deposited in the Department of State, with instruction to deliver a copy to any person who may be interested.

JAMES MONROE.

WASHINGTON, May 4, 1822.

DEPARTMENT OF STATE,
Washington, May 3, 1822.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 19th ultimo, requesting the President "to cause to be communicated to the House, if not injurious to the public good, any letter or communication which may have been received from Jonathan Russell, esquire, one of the Ministers of the United States, who concluded the

Treaty of Ghent, after the signature of that treaty, and which was written in conformity to the indications contained in said Minister's letter, dated at Ghent, 25th of December, 1814," has the honor of reporting to the President, that, until after the adoption of the said resolution by the House, there was upon the files of the Department of State no letter from Mr. Russell, of the description mentioned therein; but that Mr. Russell himself has since delivered at the department a communication, purporting to be the duplicate of a letter written by him from Paris, on the 11th of February, 1815, to the then Secretary of State, to be communicated to the House, as the letter called for by their resolution.

A copy of this paper is herewith submitted to the President.

JOHN QUINCY ADAMS.

On motion of Mr. TAYLOR, the Message was ordered to be laid on the table.

INDIAN TRADE.

Mr. METCALFE, from the Committee on Indian Affairs, to whom was referred the bill from the Senate to amend the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," reported the same with amendments, consisting of two additional sections, as follows:

SEC. 7. *And be it further enacted*, That the thirteenth section of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved the thirtieth of March, one thousand eight hundred and two, be, and the same is hereby, repealed.

SEC. 8. *And be it further enacted*, That an act, entitled "An act making provision for the civilization of the Indian tribes, adjoining the frontier settlements," approved March the third, one thousand eight hundred and nineteen, be, and the same is hereby, repealed: *Provided, however*, That nothing contained in this act shall be so construed as in anywise to alter or impair the effect of any treaty stipulation, or other obligation, which may have been entered into between the United States and any Indian tribe or tribes.

On these amendments a debate ensued, in which they were supported by Mr. FLOYD and Mr. METCALFE, and opposed by Mr. WOOD and Mr. VANCE.

Mr. METCALFE addressed the House as follows:

Mr. Speaker: I would not object to any direction which it might be the pleasure of the House to give to the bill for the purpose of affording an opportunity of a more full and thorough investigation of the amendments proposed by the Committee on Indian Affairs, were it not too late in the session for delay, and because it is important that the bill should pass, whether the amendment be adopted or rejected.

Perhaps, said Mr. M., an apology is due to the gentleman from Virginia, who, being a member of the committee, was not consulted touching the proposed amendment. This bill was not referred to the committee until yesterday, and as the session is nearly at a close, it was expected by all the warm friends of the bill that the committee would not fail to report it on this day. My own duty on another committee, and the shortness of the time allowed, prevented a regular meeting, this morning,

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of the Committee on Indian Affairs, and therefore it was, that I consulted such of the members only as could be found in the House at the moment, and obtained the consent of a majority, to the amendment proposed.

Let it be recollected, said Mr. M., that, by the authority of the House, it has been made the special duty of this committee to inquire into the progress which has been made in the civilization and happiness of the Indian tribes, under the system which has been devised and pursued for that purpose. It is, therefore, my duty to communicate to the House the result of the inquiries. Here Mr. M. adverted to the 13th section of the act of 1802, by which the sum of \$15,000, annually, is appropriated for civilizing purposes; for presents, &c. He objected to this expenditure, upon the ground that it was no longer necessary; that the Indians derived no benefit from it; and because no satisfactory account could be obtained of its application, to whom paid, or for what purpose. He then adverted to the act of 1819, appropriating the sum of \$10,000, annually, for the instruction of the Indians in agricultural pursuits, and to educate them; and read a communication from the President, showing if the President was not himself deceived, as Mr. M. supposed he might be, that a considerable portion of this sum had been applied to the erection of buildings in the Indian settlements, which in his opinion ought not to be tolerated. And he objected to the employment of Dr. J. Morse, and to the sum paid for his services, under the provisions of this law. But, said Mr. M., that we may know something of the situation of those people, and of their numbers; that we may be well informed of the nature and condition of the materials upon which we are about to operate, I will take the liberty of adverting to extracts from the report of Dr. Morse, which was referred to the committee for that purpose.

In New England there are nine tribes, 2,247 souls. In New York ten tribes, 4,840 souls. In Pennsylvania thirty years ago, three tribes, 1,300 souls, number at this time not known. In Ohio, fifteen tribes, 2,047 souls. In Michigan and the Northwest Territory, thirty-six tribes, 27,480 souls. In Indiana and Illinois, 14 tribes, 15,522 souls. Southern Indians east of the Mississippi, twenty tribes, 66,487 souls. Total number east of the Mississippi, twenty tribes, 120,283 souls. North of Missouri and west of the Mississippi, thirteen tribes, 41,350 souls. East of the Rocky Mountains to the Mississippi, and between Missouri and Red river or west of the Mississippi to the Rocky Mountains, 36 tribes, 105,021 souls. Between Red river and the Rio del Norte, 42 tribes, 105,021 souls. Whole number west of the Mississippi 337,341. Total numbers in the United States, besides about 5,000 in Florida, and ten tribes, (number not known,) inhabiting the Upper Mississippi, 457,642 souls.

Now, said Mr. M., how to civilize and refine, and christianize these our red brothers and sisters is the question—a question truly of considerable magnitude—the solution of which appears to be attended with no inconsiderable difficulty. The

past and the present history of this matter sheds a faint gleam of light, by which to guide us in future. Here Mr. M. referred to Loskiel's history of the missions among the Indians in North America about one hundred and fifty years ago. At that period the author informs us that much had been done for the edification and refinement of the Indians; that vast numbers of them were at that time a pious and an exemplary people, rapidly increasing in civilization, and in Christian knowledge. By reading their subsequent history, however, we are irresistibly drawn to the conclusion, that their spiritual fathers wrote with an eye to their own exclusive benefit and emolument, making those upon whom their heavy contributions were levied, the dupes.

Mr. M. now referred to Bouchette on Canada, giving an account of the condition of the domiciliated Indians of St. Regis, who for centuries had been blessed with resident Catholic missionaries as their spiritual fathers; and, instead of progressing in civilization and refinement, or in Christian piety and virtue, were still a lazy, dirty, and degraded band of savages, unchristian, immoral, and vicious in the extreme.

Mr. M. said he would now refer to the history of the various tribes, or remnant of tribes, in the interior of our own country, by reading extracts from the report of Dr. Morse. The Rev. E. Kellogg writes the following account: "The Passamaquoddies and Penobscots are Catholics, and under the care of Catholic priests, who receive a stated stipend from the State treasury. They have made no other than incipient improvements in any thing which pertains to civilized life, and are sadly given to intemperance." So much for the Indians in the State of Maine. Now for those in the State of Massachusetts—"All the Indians remaining in this State reside on their respective reservations at Marshpee, Herring Pond, Martha's Vineyard, and Troy, on the southeast part of the State, from fifty to one hundred miles from Boston. The State, by a board of overseers, exercises a guardian care over them; as to their lands and civil rights and privileges. And the Corporation of Harvard College, and the Society for Propagating the Gospel among the Indians and others in North America, provide for their religious and moral instruction, having charity funds in its treasury, appropriated for the use and benefit of the Indians, the former \$12,000 the latter \$9,000. A stated missionary, Rev. Dr. Fish, is supported at Marshpee. The Rev. Doctor writes that, among them are a few who are eminently pious; considerable numbers decent in their lives, and not a few shockingly profligate. The state of morals low. Intemperance, with its concomitants, is found among them. The number of pure blooded Indians is extremely small, say fifty or sixty, and is daily decreasing. The mixture of blood arises far more from their connexion with negroes, than with the whites; their number is diminishing on account of their vices." Rev. Mr. Thatcher writes as follows: "It is true we think we see but little good in preaching to

'these people. Did we not take into considerations the evils which we probably prevent, who would not be discouraged and give up the cause, saying I have labored in vain, and spent my strength for naught?' In Rhode Island it is said their condition is not quite so bad.

Of those in Connecticut, it is said "that the few now remaining in this State have made but few advances in any thing which pertains to civilization, and are gradually wasting away, after the manner of other tribes, now extinct. The State has assumed the care of their property, in like manner as the other New England States have provided for their Indians. They have such advantages of religious and moral instruction as they are willing to receive, which are few, and the effects proportionably small. Those Indians, especially at North Stonington, and at Groton, are said to be, with very few exceptions, intemperate and improvident; of course, poor and miserable. They manufacture mats, brooms, baskets, and so on, which they generally sell for ardent spirits." Such are the results of long experience, as we have it from the mouths of individuals who are employed to civilize and to convert them to Christianity, and who are compensated for their services by public or private donations. Shall the Government take up and follow the hopeless example?

"The Six Nations, residing in the State of New York, in number 4,575, remain on their respective reservations, containing, in all, about 265,315 acres of land." "Many petty depredations, and thefts, and trespasses, are committed by them and the whites upon each other." To this testimony may be added that of honorable members from New York, who inform us that, instead of advancing in civilization or in piety, they are rapidly degenerating into vice and corruption.

Of those in the State of Ohio, it is said: "The Wyandots came from the country near Quebec, about two hundred and fifty years ago, when the French had dominion of Canada. They maintained a Roman Catholic missionary among them. By these missionaries they were nearly all baptized, and nearly all the aged ones still carry crucifixes in their bosoms, under their shirts. Between the years 1803 and 1810 the Presbyterians supported a missionary among them, on the Sandusky river. A few converts were made, who were put to death by the Catholic Indians on account of their religion."

From this I infer that it is improper to impose a tax upon our Protestant citizens for the support of Catholic missionaries, and equally as improper to tax the Catholic for the purpose of supporting Protestant missionaries. To preserve our holy religion in its purity, we must let it make its own way, with the smiles and friendly countenance of the Government beaming upon every sect and denomination, without giving pecuniary aid to any one. "The number of Cherokees, inclusive of whites, blacks, and mixed blood, is estimated at 11,500. In the treaty of March, 1819, they ceded a part of their territory to the United States. Among other reservations is one of a

'tract of land, of twelve miles square, to be sold by the United States, and vested by the President in the most profitable stock, as a school fund for the Cherokee nation."

For a population not half equal to that which is contained in a small county in one of our States, this appears to be an ample provision. Our own citizens, in any part of this Union, would rejoice to have such a school fund as this. The Choctaws, it is said, are also well provided for.

Now, said Mr. M., what are we told by that distinguished fellow-citizen, whose keen and penetrating intellect, and whose long experience enables him to speak to us the language of wisdom, and to afford us so much light upon this momentous subject? [He then read from the Literary and Scientific Repository the following extract of a letter from Governor Cass:]

"The lessons of experience upon this subject are too important to be disregarded. In the zealous efforts which are now making to meliorate the condition of the Indians, we have much to learn from the history of the progress and result of the same experiment which was made by the Jesuits. We cannot bring to the task more fervid zeal, more profound talents, more extensive or varied acquirements, nor probably a deeper knowledge of the principles of human nature. But, so far as respects any permanent or valuable impression, they have wholly failed. Very few of the Indians profess any attachment to the Christian religion; and, of those who make this profession, there is not probably one whose knowledge is not confined to the imposing rites and external ceremonies of the Catholic church. A more vivid impression appears to have been made upon the Wyandots than upon any others; and they preserved for a longer term than any other tribe, traces of the indefatigable exertions of their spiritual fathers. But, even with them, superior as they are in intellectual endowments, and placed by their local situation in contact with a Catholic community, the subject is forgotten, or, if remembered, it is remembered only by a few aged and decrepit persons, like other traditionary legends of their nation."

Upon these remarks, said Mr. M., no commentary can be necessary. I will now pass to one more extract of a letter from Mr. Sibley, an intelligent Indian agent, of long experience among that people, to Dr. Morse, which I have taken from his report:

"I have noticed Indians observing with much apparent interest the effects of our agricultural skill, our fine gardens, abundant crops, and numerous comforts and conveniences. A very sensible Osage, the Big Soldier, who had twice been at Washington, once said to me, when I was urging the subject of civilization upon him: 'I see and admire your manner of living, your good warm houses, your extensive fields of corn, your gardens, your cows, oxen, work horses, wagons, and a thousand machines that I know not the use of. I see that you are able to clothe yourselves, even from weeds and grass. In short, you can do almost what you please. You whites possess the power of subduing almost every animal to your use.' But, after this acknowledgment, on his part, of our superior skill in the various arts, and this candid ex-

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pression of his admiration, he continues thus: 'You are surrounded by slaves. Every thing about you is in chains; and you are slaves yourselves. I fear, if I should change my pursuits for yours, I should become a slave. Talk to my sons; perhaps they may be persuaded to adopt your fashions, or at least to recommend them to their sons; but, for myself, I was born free, and wish to die free! I am perfectly content with my condition. The forests and rivers supply all the wants of nature in plenty; and there is no lack of white people to purchase the products of our labor.'"

Such, said Mr. M., is said to be the language, such the sentiments of the Indians generally. And what a commentary is this upon the speculations of the theorist! upon him whose fanciful notions give direction to all his actions! What a lesson to the proud presumptuous man who never thinks of doing good to thousands and tens of thousands of nearer, and dearer, and much nobler objects immediately around him, who are fairly within the sphere of his action, and in need of his assistance, but is continually casting ahead before the light breezes of his own inordinate vanity, pretending to vie with his Maker in acts of universal benevolence! Yes, of universal benevolence! How has his imaginary castles been upset and demolished by those plain but irresistible and self-evident truths which have fallen from the lips of an Indian!

When the forests no longer abound in game, nor the rivers with fish, in sufficient quantities for the sustenance and support of the Indian, he will abandon the life of the hunter for that of the agriculturist, and not before. As long as furs and peltries are in demand, and can be had by following the chase, that long there must, and will, and ought to be, hunters; and were it in our power, by forced measures, or otherwise, to withdraw the Indian from the recesses of the wilderness, from the pursuits of the chase, and learn him to become a tiller of the ground, what would be the consequence? Would not the white man become a hunter in his stead? And thus while with such eager solicitude we urge, and press, and force, if we could force, the Indians into a state of civilization, do we uncivilize, or, rather, savage, an equal number of our own citizens. Would not this be the inevitable result? No one, it is presumed, will, or can, deny the fact. And is it not a fact worthy our most serious consideration? I candidly acknowledge, that, for my own part, I have no great partiality for such a change, or rather for such an exchange, even were it in our power to accomplish it.

But I am persuaded that the civilization of the Indians, if effected at all, is to be the work not only of time, but of necessity. Yes, sir, of sheer, of stern necessity. Slowly progressive in its march, and by degrees almost imperceptible, it will, within the time, and to such extent as their great and good spirit shall direct, come to pass.

Let us be careful to throw no obstacles in the way. On the contrary, let us set them a bright example, and that example will have its attractions. We are much the strongest party; therefore, let justice, peace, and mercy, towards them,

be our motto. It is our duty to treat them with humanity and tenderness, and not to abuse the power we possess, by wielding it to their injury and destruction. And, sir, if we go beyond this, if we must and will draw upon our country's Treasury to help them on, let it only be done when there is at least a reasonable prospect of attaining the great object we have in view.

Much of the treasure of this people has already been wasted in vain and futile attempts to civilize the Indians. I say wasted, because its application has had no good effect upon them, and has subserved no other purpose, except to fill the pockets of a few favored individuals, who are interested in deceiving us, and all of whom now unite in one general cry for more money—more money—give us more money, and the public land, and the good work shall be done! Not that any good is likely to be done so as to be discernable to those who live in our day, and generation. Oh no! But perhaps some small traces of the good effects of our honest and disinterested efforts may be visible to those of our posterity a few centuries hence, who delight so much in looking back through the dark mists, and shadows, as they are closing behind them—through the twilight of uncertainty, for the purpose of descrying, and of contemplating the virtues and the generosity of their ancestors; and of profiting, as individuals of a similar cast always have done, as they now do, and always will do—very little by any good example.

How various are the pursuits of various men. One man is engaged, deeply and ardently engaged, in contemplating the scenes which have long since gone by, and over which Time, bald-pated Time! is about to throw, or perhaps has already thrown, his impenetrable mantle, for the purpose of hiding those scenes forever from the view of mortals.

Another devotes his whole life most earnestly and zealously to the study of some plan, or scheme, or project, by which he fondly hopes to add very greatly to the future stock of human happiness, of human grandeur, and of human glory, and thereby to procure for himself a name immortal. While, on the other hand, such men as myself, limited, extremely limited no doubt in their views, and fully sensible of their own weakness, without looking quite so much at the past, or pretending to form any very extensive plans for the future, confine their humble and feeble exertions principally to that, which, in their opinion, will redound most to the honor and interest of their compeers; especially of those upon whom their acts are to have an immediate, and certain effect—returning thanks occasionally, to be sure, for the good with which their ancestors were blessed, and praying for the good of posterity, but, without once losing sight of what they consider a great, a paramount, and an indispensable duty, which they owe to the present generation.

Such men as these, Mr. Speaker, will necessarily inquire of you, how do we raise the revenue out of which this civilizing cash is to be furnished? They will not forget, that it is raised in part by an indirect tax upon articles of the very first ne-

cessity; and in part by taxing those articles from the use of which our citizens derive a very considerable portion of all their comforts, and of all their enjoyments; that it is a tax upon articles of necessary consumption, a matter of very doubtful policy at any time. For, in proportion to the increase of such a tax, do we depress our own productive citizens, and discourage and check the increasing population of our own country. Yes, of our own country! endearing name, but always lost sight of when we are chasing a shadow, or pursuing a phantom, from which no good is to be realized. He that will not provide for his own household, is said, by the highest authority, to be worse than an infidel. We have a numerous household, consisting of nearly ten millions of souls, for whom, if we do not provide, let us not deprive them of the means which they are industriously striving to provide for themselves.

The citizen of this Republic who rears a numerous family in decency, were he to sit down and calculate the amount of taxes annually paid by him upon the articles of sugar, molasses, tea, coffee, pepper, spices, muslins, calicoes, cloths, and so on—an endless list—would be lost in astonishment. Yes, he would be lost in astonishment.

I know, Mr. Speaker, that we represent a magnanimous and a generous people. Of taxes they will not complain if imposed for humane, and benevolent, and useful purposes, and applied accordingly. But we are deceiving ourselves, and the people are deceived, in supposing that we promote the cause of humanity, or add any real substantial benefit to the Indians by this idle application of our money—this wanton waste of the nation's treasure. A word or two in relation to those Indians who are dispersed and scattered over that vast region of wilderness beyond the borders of our settlements. And here I do not mean to travel with you upon the waters of the Rio del Norte or along the shores of the Pacific. Nor do I intend at present to run across the path of my honorable and highly respected friend from Virginia, by disturbing his infant colony at the mouth of the Columbia; though I may hereafter stand at his back, when it shall become necessary to support him in opposition to the Emperor Alexander. But, confining myself to the Indians on this side of the Rocky Mountains—what do they think of our civilizing systems? Let them answer for themselves. The words of a principal chief of the Fox tribes, as related by Mr. Sibley, will show you their aversion to our laws, and the repugnance they feel to what we call civilization. "The Great Spirit (said Wah-ha-lo) put the Indians on the earth to hunt, and to gain a living in the wilderness; and I always find, that when any of our people depart from this mode of life, by attempting to read and write, and live like the white people do, the Great Spirit is displeased with them, and they soon die.*" Here we discover

that submission to laws, however mild and equitable in their provisions, is, in their estimation, the most intolerable bondage. The various cords and links by which, under the social compact, all civilized societies are united, they look upon as so many galling chains, as the very badges of slavery, and therefore not to be endured. These wild, but proud and lofty spirits, indignantly spurn what they are led to consider a dull and ponderous load. Mr. Speaker, I know not how to hold the mirror up to nature. But little of my time has been devoted to the study of her laws. I cannot pretend to say, whether, in the organization and construction of the interior man, there is so great a difference that the white and red man cannot be brought to think and act alike, under similar circumstances. But, I will say, that all our attempts to make them think and act alike under circumstances so dissimilar, is not only vain, but, if I may be pardoned for the expression, it is in my opinion an exceeding folly, if not presumption.

There are certain animals which, in their exterior appearance, bear as strong a resemblance to each other as does the white man and the Indian, and yet, by nature, they are wholly irreconcilable. Not to mention certain quadrupeds of this description, I will barely point to some of the feathered tribes. The wild duck for instance—how soon it dives to hide from you. The partridge conceals itself while the shell is yet upon its head. But more especially the turkey. Do we not see what we very properly call the wild turkey, often brought into life by, and raised with, those of the domestic breed, without having seen one of its own kind? And yet, we find that, as soon as it arrives at sufficient strength and maturity, scorning the barnyard, though strewed with abundance, it leaves the roost of its companions, and, bounding aloft, it perches on the top of some distant, towering, tree—on the branches of the proudest monarch of the forest within its reach. This is repeated again and again. Wandering from the side of the gentle brood, he strolls in pursuit of other objects, which, though he has never seen, he is, by the irresistible force of nature, led to believe do somewhere exist. With desire keen and strong, he seeks, and, if successful, he bids farewell, a long farewell, to all his old companions, and returns to them no more. And thus it is that whole broods have, from time to time, been brought into life and raised up on the farm, and have as invariably disappeared. Where are they now to be found? Though I will not indulge in the afflicting belief that such a destiny as this does really await our red brethren, yet I do most sincerely believe that such is the barrier which nature interposes between the two people, together with the powerful force of habit operating upon them, that all our attempts to civilize those Indians, who are dispersed and scattered in the wilderness, will be fruitless and unavailing. And, therefore, in plain and common language, I do most respectfully give it as my humble opinion that we had much better mind our own business; yes, we had much better mind our own business. And equally vain will be all our attempts to civilize those within the interior

* The address of the Indian chiefs to the President, during the present session of Congress, is well known to contain similar sentiments; they could not think of bruising their hands by labor.

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Special Bank Deposites.

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of our country, and surrounded by our settlements, unless we first remove certain artificial obstacles which we must see, and perhaps can remove. I mean, that we must radically change our present system of policy—the political relations existing between them and us. We may educate them, instruct them in agricultural and mechanic arts, furnish them with the implements of husbandry, and try to convert them to Christianity; and, after all, unless we secure to them the benefit and protection of our laws and municipal regulations, and in this way ingraft them, like so many twigs, upon the stalk, or upon the branches of the stalk of the Republic, all our efforts will be without effect.

If the States, respectively, in which the small tribes or remnant of tribes remain, will not consent to the removal of these artificial obstacles, and suffer our civilizing experiments to be fairly made, for one, I despair of success; and, abandoning all our projects as idle, and even visionary, I will not vote my country's treasure to any such purpose. Encompassed around about by such a power as this, what can they do, while they remain, not independent communities, but dependent upon our will, and yet without the pale of our laws. Aliens in their own country, they can do nothing; they may recede, they cannot advance. If the Government will give them, individually, a just and reasonable portion of their lands—of their respective reservations, laid out in its proper metes and boundaries, and take them under the jurisdiction and control of the laws, gradually extending to them such rights and privileges as shall be reasonable, perhaps something may be done. Otherwise, viewing all our projects as a mere mockery, I am prepared to give it over.

In support of these views, Mr. M. said he would refer honorable members to the Inaugural Address of the President, on the 4th of last March, and also, to the report of the honorable Secretary of War, during the present session of Congress, as well as at the session of 1818. It is but right, said he, to give the Indians fair play. Encourage them to the exertion of their own faculties, of their own energies; but do not impose heavy contributions upon our white citizens, from which the Indians are, in truth, to derive no profit, no advantage; but which goes to the special and exclusive benefit of those who can, with the greatest facility and convenience, obtain access to your treasury.

Mr. VANCE called for the previous question, which was sustained by the House; and the previous question being taken, was decided in the affirmative. The main question on ordering the bill to be read a third time, thereby excluding the proposed amendments of Mr. METCALFE, was put and carried.

SPECIAL BANK DEPOSITES.

A bill from the Senate for the disposal of certain special deposits, was twice read; and

Mr. MILNOR moved that the same be postponed until the first Monday in December next. The ground on which he made the motion was, that he did not fully understand the object and bearing of the bill; nor did he think it was fully under-

stood by the House. He could perceive no special necessity for its passage at this time; and he was unwilling that any bill of this sort should go through the House without being fully investigated and well understood.

Mr. HARDIN remarked, that it was essentially necessary that the bill should pass at the present session, to enable the Secretary of the Treasury, before it was too late, to make such an arrangement as should secure to the United States the amount of these deposits. The bill forbids any disposition of those funds at a rate lower than par. Of course the interest of the United States was perfectly safe. Besides, it was all to be done under the cognizance, and with the approbation, of the President of the United States. What harm, then, could flow from this bill? On the other hand, if it did not pass, Mr. H. said, and the charters of the banks indebted to the United States should be taken away before the debt was secured, the whole amount would be inevitably lost. He had no doubt there was a disposition on the part of the directors, in all these States, to secure the United States, if they could do so; because he would not doubt but there was honesty enough in the West to do this, if an opportunity was offered. But delay might be fatal, and he hoped, therefore, the bill would be allowed to pass.

Mr. COOK commenced some remarks, by observing that the gentleman from Kentucky was wrong in his premises, when he assumed that the debts due by these banks were in the nature of special deposits in their vaults. Of such special deposits, the proportion was very small. It was debts due by these banks, and not special deposits, which was the subject of this bill. In the case of the Bank of St. Louis, of the \$152,000 due by that bank, no part was special deposit. It was a deposit of money in that bank, which, from the unfortunate management of its affairs, or rather from the unfortunate situation of the affairs of that part of the country, became unable to pay it. Mr. C. took a review of the manner in which these debts by the banks had arisen. Permanent deposits in certain of these banks, which Mr. C. enumerated, had been made in consequence of stipulations with the Treasury. They were authorized to receive the public moneys in their banks, and were required to make transmissions of it to such points as the Government might wish. The special deposit must be of very limited amount, because, in 1816, a resolution passed forbidding the receipt of any paper in payment on public account which could not be cashed at sight, &c. The deposits, then, had been cash, or paper of value equivalent to specie, and the banks are bound to pay the same to the Government. This bill ought not to pass in its present shape for various reasons, one of which was, that it authorized an indulgence to the banks on their securing the principal of their debt, thus giving up the interest altogether. This bill, besides, was unnecessary in any view, if the course heretofore pursued had been a proper one. The Secretary of the Treasury, who had draughted this bill asking permission to make arrangements for securing the future

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payment of this money, had been exercising this power since the year 1818. With the Bank of Steubenville he had made an arrangement to receive payment of the money due by them in instalments; and, in regard to the Bank of Vincennes, of the \$168,000 due by that bank, the Secretary had received, in the exercise of the same power, the bonds of individuals to the amount of forty or fifty thousand dollars, and taken a mortgage on real property to secure the payment of the remainder. This same bank loaned to the State of Indiana a large sum of money, and the Governor gave bonds for the repayment of it; and these bonds had been transferred to the United States. The Governor of the State was ready to pay them off—but what *in*? In the paper of those very banks, which is not worth a farthing. And an arrangement had been authorized to be made with the Bank of Missouri, precisely of the sort proposed in this bill to be authorized. Why bring in a bill now to give authority to do a thing which has been done at all times heretofore without that authority? Why was the bill brought in, too, by one committee, when the subject had been specially referred to another? These banks, Mr. C. further observed, were, many of them, earnestly desirous to pay these debts. The Bank of Edwardsville was anxious to pay its debts, and was taking efficient means to pay it, having set apart double the amount of good and solvent paper to meet it.

[The SPEAKER had more than once observed, that debate on the main question was not in order on a question of postponement, and, submitting to this intimation, Mr. Cook here closed his remarks.]

Mr. TAYLOR then moved to lay the bill on the table; which motion was agreed to.

CUMBERLAND ROAD.

A Message was received from the PRESIDENT OF THE UNITED STATES, by Mr. Gouverneur, his Secretary, who, by command of the President, returned to the House the enrolled bill passed by the two Houses, entitled "An act for the preservation and repair of the Cumberland Road," presented to the President for his approbation and signature on this day, to which bill the President, having made objections in writing, the same were also delivered in by the said Secretary at the Speaker's table; who thereupon withdrew.

The said objections were read, and are as follows:

To the House of Representatives of the United States:

Having duly considered the bill, entitled "An act for the preservation and repair of the Cumberland Road," it is with deep regret, approving, as I do, the policy, that I am compelled to object to its passage, and to return the bill to the House of Representatives, in which it originated, under a conviction that Congress do not possess the power, under the Constitution, to pass such a law.

A power to establish turnpikes, with gates and tolls, and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement. A right to impose duties

to be paid by all persons, passing a certain road, and on horses and carriages, as is done by this bill, involves the right to take the land from the proprietor, on a valuation, and to pass laws for the protection of the road from injuries; and, if it exist as to one road, it exists as to any other, and to as many roads as Congress may think proper to establish. A right to legislate for one of these purposes is a right to legislate for the others. It is a complete right of jurisdiction and sovereignty, for all the purposes of internal improvement, and not merely the right of applying money, under the power vested in Congress to make appropriations, under which power, with the consent of the States through which this road passes, the work was originally commenced, and has been so far executed. I am of opinion that Congress do not possess this power; that the States, individually, cannot grant it; for, although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted only by an amendment to the Constitution, and in the mode prescribed by it.

If the power exist, it must be, either because it has been specifically granted to the United States, or that it is incidental to some power which has been specifically granted. If we examine the specific grants of power, we do not find it among them; nor is it incidental to any power which has been specifically granted.

It has never been contended that the power was specifically granted. It is claimed only as being incidental to some one or more of the powers which are specifically granted. The following are the powers from which it is said to be derived:

1st. From the right to establish post offices and post roads. 2d. From the right to declare war. 3d. To regulate commerce. 4th. To pay the debts and provide for the common defence and general welfare. 5th. From the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof. 6th, and lastly. From the power to dispose of, and make, all needful rules and regulations respecting, the territory and other property of the United States.

According to my judgment, it cannot be derived from either of those powers, nor from all of them united, and in consequence it does not exist.

Having stated my objections to the bill, I should now cheerfully communicate at large the reasons on which they are founded, if I had time to reduce them to such form as to include them in this paper. The advanced stage of the session renders that impossible. Having, at the commencement of my service in this high trust, considered it a duty to express the opinion, that the United States do not possess the power in question, and to suggest, for the consideration of Congress, the propriety of recommending to the States an amendment to the Constitution, to vest the power in the United States, my attention has been often drawn to the subject since, in consequence whereof I have occasionally committed my sentiments to paper respecting it. The form which this exposition has assumed, is not such as I should have given it, had it been intended for Congress, nor is it concluded. Nevertheless, as it contains my views on this subject, being one which I deem of very high importance, and which, in any of its bearings, has now become pecu-

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Relief Bills, &c.

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liarily urgent, I will communicate it to Congress, if in my power, in the course of the day, or certainly on Monday next.

JAMES MONROE.

WASHINGTON, May 4, 1822.

Mr. TAYLOR moved that the Message, and the bill be laid on the table, which was carried—ayes 82.

[See *post.* page 1809, for this Exposition.]

RELIEF BILLS.

The House then resolved itself into a Committee of the Whole on a bill for the relief of Joshua Bennet; and, no amendment having been proposed thereto, the Committee reported the said bill to the House, and the same was ordered to be engrossed for a third reading.

Mr. LITTLE, by unanimous consent, reported a bill explanatory of the act for the relief of sundry inhabitants of Baltimore, which was, by general assent, read a first and second time, and ordered to be engrossed for a third reading.

The following bills were read a third time, and passed, viz: A bill for the relief of William N. Earle; a bill for the relief of Charles A. Swearingen; a bill for the relief of the heirs of Edward McCarty, deceased; a bill for the relief of Solomon Prevost; a bill for the relief of the legal representatives of John Girault; a bill for the relief of John Byers; a bill for the relief of the legal representatives of John Guthrie, deceased; a bill for the relief of Anthony Kennedy; and a bill for the relief of Sally Vance.

The House then went into a Committee of the Whole on the bill vesting in the commissioners of the counties of Wood and Sandusky, their right to certain lots in the town of Perrysburg and Croghansville, in the State of Ohio, and for other purposes; a bill for the relief of Samuel Ewings; and a bill for the relief of William Dooley; and, after sundry amendments made thereto, the said bills were reported to the House. The reports of the Committee of the Whole were concurred in respectively, and the said bills were severally ordered to be engrossed for a third reading.

By general assent of the House, the bill for the relief of certain persons who have paid duty on goods imported into Castine, was taken up; and, after observations thereon by Messrs. SMITH, of Maryland, COCKE, WILLIAMSON, and TOD—

Mr. COCKE moved that the bill be laid on the table; which was agreed to—ayes 66.

On motion of Mr. ROCHESTER, (it being four o'clock,) a recess of the House, until six o'clock, was ordered.

Evening Sitting—Six o'clock.

Mr. SAWYER moved for the consideration of a resolution heretofore submitted by him, relative to an earlier meeting of the next session of Congress, than the time prescribed by law, but it was decided to be not in order.

On motion of Mr. RANKIN, the House then resolved itself into a Committee of the Whole on the bill requiring Surveyors General to give bond and security for the faithful disbursement of public money, and to limit their term of office. The blanks having been filled, and the bill gone through

with, the Committee rose, and reported the same to the House, and the bill, with the amendments, was concurred in, and ordered to be engrossed for a third reading.

Engrossed bills of the following titles: An act to incorporate the inhabitants of Georgetown, and to repeal all other acts heretofore passed for that purpose; An act for the relief of William Dooley; An act for the relief of John Crute; and An act for the relief of Samuel Ewings; were severally read the third time, and passed.

A bill for the relief of Robert Purdy, having been read a third time, after some remarks by Mr. MATROCKS against it, on motion of Mr. TAYLOR, was ordered to be laid on the table.

Mr. WRIGHT said he voted in the majority in order to obtain the opportunity of moving to reconsider the vote, which he therefore did, and made a speech upon the subject, in favor of the bill.

Mr. TAYLOR called for the previous question, which was sustained by the House—ayes 57, nays 42; and the main question, to reconsider the bill, being stated, Mr. BALDWIN called for the yeas and nays on the main question, but the House did not sustain the call.

The main question was put, Will the House reconsider the vote just passed? And it was decided in the negative—ayes 52, nays 74. So the bill lies upon the table.

The bill from the Senate, entitled "An act to continue in force 'An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's,' was read the third time, and passed.

Engrossed bills of the following titles, to wit: An act to repeal part of an act passed by the State of Maryland in the year 1784, and now in force in Georgetown, in the District of Columbia, entitled "An act for an addition to Georgetown, in Montgomery county;" An act for the relief of John Pellet; An act for the relief of the legal representatives of Marie Therese; An act for the benefit of Reuben Hickman and Fielding Hickman; An act to authorize the issuing of letters patent to Joshua Garsed; An act explanatory of an act for the relief of sundry citizens of Baltimore; An act for the relief of Joshua Bennett; were severally read the third time, and passed.

The House resolved itself into a Committee of the Whole on a bill to incorporate the United States Naval Fraternal Association; a bill for the relief of Amos Muzzy and Benjamin White; a bill for the relief of John Post, and Farley Fuller; and a bill for the relief of John Matteson; after certain amendments to the first named bill, the same were reported to the House, and ordered to be engrossed, except in the case of the United States' Fraternal Association, which bill, on motion of Mr. HARDIN, was ordered to be laid on the table—ayes 66.

[The ground of objection was against the exercise of the general power of incorporation which it proposes.]

The House then resolved itself into a Committee of the Whole on the bill for the relief of Edward Kinsey and William Smilie; a bill concerning certain invalid pensioners; a bill for the relief of James Brisbane and Jonah Lewis; and a bill for the relief of William Thompson; and after some amendment thereto had been adopted, the Committee rose, and reported the said bills to the House, where the same were respectively read and concurred in, and they were severally ordered to be engrossed.

Engrossed bills of the following titles, viz: An act requiring surveyors general to give bond and security for the faithful disbursement of public money, and limit their term of office; An act for the relief of Amos Muzzy and Benjamin White; An act for the relief of Edward Kinsey and William Smiley; An act for the relief of William Thompson; An act for the relief of John Post and Farley Fuller; and An act for the relief of John Matteson; were severally read the third time, and passed.

The House then went into a Committee of the Whole, on a bill for the relief of Clement B. Penrose; a bill confirming the claims to certain lots in the town of Mobile and land claims in Florida; a bill for the relief of Susan Berzat, widow and the legal representative of the late Gabriel Berzat, deceased; a bill for the relief of James Pierce; and a bill for the relief of Peter Cadwell, and James Britten. The said bills having been gone through with, were reported to the House and concurred in, and ordered to be engrossed, &c., except the bill for the relief of Clement B. Penrose, which, on motion of Mr. McCoy, was ordered to be laid on the table.

The House then went into a Committee of the Whole, on a bill for the relief of Charles Campbell; a bill for the relief of William Gwynn; a bill for the relief of Loudon Case; a bill for the relief of James Miller, John C. Elliott, and others, sureties of John H. Alley; which were gone through with, reported without amendment, concurred in, and ordered to be engrossed, &c.

The House then went into a Committee of the Whole, on a bill to authorize the Secretary of State to issue letters patent to Frederick S. Warburg, Richard Holden, John Garsed, and James Green; and no amendment having been ordered, thereto, the Committee reported the same, and the said bills were ordered to be engrossed for a third reading.

Engrossed bills of the following titles, viz: An act for the relief of James Brisbane; An act for the relief of Susan Berzat, widow, and the legal representatives of Gabriel Berzat; An act for the relief of James Pierce; An act for the relief of Peter Cadwell and James Britten; An act for the relief of Charles Campbell; and, An act for the relief of James Miller, John C. Elliott, Noah Hampton, James Erwin, and Jonathan Hampton; were severally read the third time and passed.

The House then went into a Committee of the

Whole, on the bill for the relief of Stephen Howard, Jr.; a bill for the relief of Joseph Bainbridge; a resolution authorizing the delivery of certain rifles to Captain Aikin's Volunteers; and a bill for the relief of Benjamin Desobry; which, after consideration thereof, were reported to the House without amendment, concurred in, and ordered to be engrossed.

The House then went into a Committee of the Whole, on a bill for the relief of Benjamin Stephenson; a bill for the relief of Samuel N. Walker, Joseph L. Dutton, and others; and a bill for the relief of James Barron; which, having been gone through with, were reported to the House, concurred in, and ordered to be engrossed.

The House then resolved itself into a Committee of the Whole, on a bill relinquishing the right of the United States to certain lots of land in the town of Tuscaloosa; a bill concerning Abner L. Duncan; a bill for the relief of Henry Lee; and a bill for the relief of William R. Maddox; which, having been gone through with, were reported to the House. The bill concerning Abner L. Duncan was ordered to be laid on the table; and the bills for the relief of Henry Lee and William R. Maddox, were ordered to be engrossed for a third reading. The question was taken on engrossing the bill relinquishing the right and title of the United States to certain lots of ground to the President and Commissioners of the town of Tuscaloosa, in the State of Alabama, and passing the same to a third reading, and was determined in the negative; and so the said bill was rejected.

The House then went into a Committee of the Whole, on a bill authorizing the payment of certain certificates; which, having been amended, was reported to the House, concurred in, and ordered to be engrossed.

An additional Message from the President of the United States, in relation to the Message this day presented on the subject of the Cumberland road, was received; and, on motion of Mr. Ross, was ordered to be laid on the table and printed.

The engrossed resolution to authorize the delivery of certain rifles promised to Captain Aikin's volunteers at the siege of Plattsburg, after some discussion, in which Messrs. RHEA, TOMLINSON, MALLARY, LITTLE, JONES of Tennessee, HARDIN, EUSTIS, and H. NELSON, took part, was read a third time and passed.

Engrossed bills of the following titles, viz: An act for the relief of Samuel Walker, Joseph L. Dutton, John Martin, Samuel Peterson, and Hannah Peterson; An act for the relief of Benjamin Stephenson; An act for the relief of Henry Lee; An act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States; An act for the relief of William R. Maddox; An act for the relief of Joseph Bainbridge; An act for the relief of James Green; An act for the relief of Loudon Case; An act concerning invalid pensioners; An act to authorize the Secretary of State to issue letters patent to Frederick S. Warburg; An act for the relief of

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William Gwynn; An act for the relief of Benjamin Desobry; An act to authorize the issuing of letters patent to Richard Holden; An act for the relief of James Barron; An act to authorize the issuing of letters patent to Joshua Garsed; An act for the relief of Stephen Howard, junior; and, An act authorizing the payment of certain certificates, were severally read the third time and passed.

INTERNAL IMPROVEMENTS.

In the course of the day, the following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

I transmit the paper, alluded to in the Message of this day, on the subject of internal improvements.

JAMES MONROE.

WASHINGTON, May 4, 1822.

Views of the President of the United States on the subject of Internal Improvements.

It may be presumed that the proposition relating to internal improvements, by roads and canals, which has been several times before Congress, will be taken into consideration again; either for the purpose of recommending to the States the adoption of an amendment to the Constitution, to vest the necessary power in the General Government, or to carry the system into effect, on the principle that the power has already been granted. It seems to be the prevailing opinion that great advantage would be derived from the exercise of such a power by Congress. Respecting the right, there is much diversity of sentiment. It is of the highest importance that this question should be settled. If the right exist, it ought forthwith to be exercised; if it does not exist, surely those who are friends to the power ought to unite in recommending an amendment to the Constitution to obtain it. I propose to examine this question.

The inquiry, confined to its proper objects, and within the most limited scale, is extensive. Our Government is unlike other Governments, both in its origin and form. In analyzing it, the differences in certain respects between it and those of other nations, ancient and modern, necessarily come into view. I propose to notice these differences, so far as they are connected with the object of inquiry and the consequences likely to result from them, varying in equal degree from those which have attended other Governments. The digression (if it may be so called) will in every instance be short, and the transition to the main object immediate and direct.

To do justice to the subject, it will be necessary to mount to the source of power in these States, and to pursue this power in its gradations and distribution among the several departments in which it is now vested. The great division is between the State governments and the General Government. If there was a perfect accord in every instance as to the precise extent of the powers granted to the General Government, we should then know with equal certainty what were the

powers which remained to the State governments; since it would follow, that those which were not granted to the one would remain to the other. But it is on this point, and particularly respecting the construction of these powers and their incidents, that a difference of opinion exists; and hence it is necessary to trace distinctly the origin of each government, the purposes intended by it, and the means adopted to accomplish them. By having the interior of both governments fully before us, we shall have all the means which can be afforded to enable us to form a correct opinion of the endowments of each.

Before the Revolution, the present States (then colonies) were separate communities, unconnected with each other, except in their common relation to the Crown. Their governments were instituted by grants from the Crown, which operated, according to the conditions of each grant, in the nature of a compact between the settlers in each colony and the Crown. All power not retained in the Crown was vested exclusively in the colonies. Each having a government consisting of an executive, a judiciary, and a legislative assembly—one branch of which was, in every instance, elected by the people. No office was hereditary, nor did any title under the Crown give rank or office in any of the colonies. In resisting the encroachments of the parent country, and abrogating the power of the Crown, the authority which had been held by it vested exclusively in the people of the colonies. By them was a Congress appointed, composed of delegates from each colony, who managed the war, declared independence, treated with foreign Powers, and acted in all things according to the sense of their constituents. The Declaration of Independence confirmed in form what had before existed in substance. It announced to the world new States, possessing and exercising complete sovereignty, which they were resolved to maintain. They were soon after recognised by France and other Powers, and finally by Great Britain herself in 1783.

Soon after the power of the Crown was annulled, the people of each colony established a constitution or frame of government for themselves: in which these separate branches, Legislative, Executive, and Judiciary, were instituted, each independent of the others. To these branches, each having its appropriate portion, the whole power of the people, not delegated to Congress, was communicated; to be exercised for their advantage, on the representative principle, by persons of their appointment, or otherwise deriving their authority immediately from them, and holding their offices for stated terms. All the powers necessary for useful purposes, held by any of the strongest governments of the Old World, not vested in Congress, were imparted to these State governments, without other checks than such as are necessary to prevent abuse, in the form of fundamental declarations, or bills of right. The great difference between our governments and those of the Old World, consists in this: that the former, being representative, the persons who exercise their powers do it, not for themselves, or in their own right,

but for the people; and, therefore, while they are in the highest degree efficient, they can never become oppressive. It is this transfer of the power of the people to representative and responsible bodies, in every branch, which constitutes the great improvement in the science of government, and forms the boast of our system. It combines all the advantages of every known government, without any of their disadvantages. It retains the sovereignty in the people, while it avoids the tumult and disorder incident to the exercise of that power by the people themselves. It possesses all the energy and efficiency of the most despotic governments, while it avoids all the oppressions and abuses inseparable from those governments.

In every stage of the conflict, from its commencement, until March, 1781, the powers of Congress were undefined, but of vast extent. The assemblies, or conventions, of the several colonies, being formed by representatives from every county in each colony, and the Congress by delegates from each colonial assembly, the powers of the latter, for general purposes, resembled those of the former, for local. They rested on the same basis, the people, and were complete for all the purposes contemplated. Never was a movement so spontaneous, so patriotic, so efficient. The nation exerted its whole faculties in support of its rights and of its independence, after the contest took that direction, and it succeeded. It was, however, foreseen, at a very early stage, that, although the patriotism of the country might be relied on in the struggle for its independence, a well digested compact would be necessary to preserve it, after obtained. A plan of confederation was, in consequence, proposed and taken into consideration by Congress, even at the moment when the other great act which severed them from Great Britain, and declared their independence, was proclaimed to the world. This compact was ratified on the 21st March, 1781, by the last State, and thereupon carried into immediate effect.

The following powers were vested in the United States by the Articles of Confederation. As this, the first bond of union, was in operation nearly eight years, during which time a practical construction was given to many of its powers, all of which were adopted in the Constitution, with important additions, it is thought that a correct view of those powers, and of the manner in which they are executed, may shed light on the subject under consideration. It may fairly be presumed, that where certain powers were transferred from one instrument to the other, and in the same terms, or terms descriptive only of the same powers, that it was intended that they should be construed in the same sense in the latter, that they were in the former.

Article 1 declares that the style of the confederacy shall be, the United States of America.

Art. 2. Each State retains its sovereignty, freedom, and independence, and every power and right which is not expressly delegated to the United States.

Art. 3. The States severally enter into a firm

league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon, them, on account of religion, sovereignty, trade, &c.

Art. 4. The free inhabitants of each State, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all the privileges and immunities of free citizens in the several States, &c. Fugitives from justice into any of the States, shall be delivered up on the demand of the Executive of the State from which they fled. Full faith and credit shall be given, in each State, to the records and acts of every other State.

Art. 5. Delegates shall be annually appointed, by the Legislature of each State, to meet in Congress on the first Monday in November, with a power to recall, &c. No State shall appoint less than two, nor more than seven, nor shall any delegate hold his office for more than three in six years. Each State shall maintain its own delegates. Each State shall have one vote. Freedom of speech shall not be impeached, and the members shall be protected from arrests, except for treason, &c.

Art. 6. No State shall send or receive an embassy, or enter into a treaty with a foreign Power. Nor shall any person, holding any office of profit or trust under the United States, or any State, accept any present, emolument, office, or title, from a foreign Power. Nor shall the United States, or any State, grant any title of nobility. No two States shall enter into any treaty without the consent of Congress. No State shall lay any imposts, or duties, which may interfere with any treaties entered into by the United States. No State shall engage in war, unless it be invaded or menaced with invasion by some Indian tribe; nor grant letters of marque or reprisal, unless it be against pirates, nor keep up vessels of war, nor any body of troops, in time of peace, without the consent of Congress; but every State shall keep up a well regulated militia, &c.

Art. 7. When land forces are raised by any State for the common defence, all officers of, and under, the rank of colonel, shall be appointed by the Legislature of each State.

Art. 8. All charges of war, and all other expenses which shall be incurred for the common defence or general welfare, shall be defrayed out of a common treasury; which shall be supplied by the several States, in proportion to the value of all the land in each State, granted to individuals. The taxes for paying each proportion shall be levied by the several States.

Art. 9. Congress shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article; of sending and receiving ambassadors, entering into alliances, except, &c.; of establishing rules for deciding what captures on land and water shall be legal; of granting letters of marque and reprisal in time of peace; appointing courts for the trial of piracies and felonies on the high seas; for deciding controversies between the States,

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and between individuals claiming lands under two or more States, whose jurisdiction has been adjusted; of regulating the alloy and value of coin struck by their authority, and of foreign coin; fixing the standard of weights and measures; regulating the trade with the Indians; establishing and regulating post offices from one State to another, and throughout all the States, and exacting such postage as may be requisite to defray the expenses of the office; of appointing all officers of the land forces, except the regimental; appointing all the officers of the naval forces; to ascertain the necessary sums of money to be raised for the service of the United States, and appropriate the same; to borrow money, and emit bills of credit; to build and equip a navy; to agree on the number of land forces, and to make requisitions on each State for its quota; that the assent of nine States shall be requisite to these great acts.

Art. 10 regulates the powers of the Committee of the States, to sit in the recess of Congress.

Art. 11 provides for the admission of Canada into the Confederation.

Art. 12 pledges the faith of the United States for the payment of all bills of credit issued, and money borrowed, on their account.

Art. 13. Every State shall abide by the determination of the United States, on all questions submitted to them by the Confederation. The Articles of the Confederation to be perpetual, and not to be altered without the consent of every State.

This bond of union was soon found to be utterly incompetent to the purposes intended by it. It was defective in its powers; it was defective, also, in the means of executing the powers actually granted by it. Being a league of sovereign and independent States, its acts, like those of all other leagues, required the interposition of the States composing it, to give them effect within their respective jurisdictions. The acts of Congress, without the aid of State laws to enforce them, were altogether nugatory. The refusal, or omission, of one State, to pass such laws, was urged as a reason to justify like conduct in others, and thus the Government was soon at a stand.

The experience of a few years demonstrated that the Confederation could not be relied on, for the security of the blessings which had been derived from the Revolution. The interests of the nation required a more efficient Government, which the good sense and virtue of the people provided, by the adoption of the present Constitution.

The Constitution of the United States was formed by a Convention of Delegates from the several States, who met in Philadelphia, duly authorized for the purpose, and it was ratified by a Convention in each State, which was especially called to consider and decide on the same. In this progress the State governments were never suspended in their functions. On the contrary, they took the lead in it. Conscious of their incompetency to secure to the Union the blessings of the Revolution, they promoted the diminution of their own powers, and the enlargement of those of the

General Government in the way in which they might be most adequate and efficient. It is believed that no other example can be found of a Government exerting its influence to lessen its own powers; of a policy so enlightened, of a patriotism so pure and disinterested. The credit, however, is more especially due to the people of each State, in obedience to whose will, and under whose control, the State Governments acted.

The Constitution of the United States being ratified by the people of the several States, became, of necessity, to the extent of its powers, the paramount authority of the Union. On sound principles it can be viewed in no other light. The people, the highest authority known to our system, from whom all our institutions spring, and on whom they depend, formed it. Had the people of the several States thought proper to incorporate themselves into one community, under one Government, they might have done it. They had the power, and there was nothing then, nor is there any thing now, should they be so disposed, to prevent it. They wisely stopped, however, at a certain point, extending the incorporation to that point, making the National Government, thus far, a consolidated Government, and preserving the State governments, without that limit, perfectly sovereign and independent of the National Government. Had the people of the several States incorporated themselves into one community, they must have remained such; their Constitution becoming then, like the constitution of the several States, incapable of change, until altered by the will of the majority. In the institution of a State government by the citizens of a State a compact is formed, to which all and every citizen are equal parties. They are also the sole parties, and may amend it at pleasure. In the institution of the Government of the United States, by the citizens of every State, a compact was formed between the whole American people, which has the same force, and partakes of all the qualities, to the extent of its powers, as a compact between the citizens of a State, in the formation of their own constitution. It cannot be altered, except by those who formed it, or in the mode prescribed by the parties to the compact itself.

This Constitution was adopted for the purpose of remedying all defects of the Confederation, and in this it has succeeded, beyond any calculation that could have been formed of any human institution. By binding the States together, the Constitution performs the great office of the Confederation, but it is in that sense only that it has any of the properties of that compact; and in that it is more effectual to the purpose, as it holds them together by a much stronger bond, and in all other respects, in which the Confederation failed, the Constitution has been blessed with complete success. The Confederation was a compact between separate and independent States; the execution of whose articles, in the powers which operated internally, depended on the State governments. But the great office of the Constitution, by incorporating the people of the several States to the extent of its powers into one community, and enabling it to act directly on

the people, was to annul the powers of the State governments to that extent, except in cases where they were concurrent, and to preclude their agency in giving effect to those of the General Government. The Government of the United States relies on its own means for the execution of its powers, as the State governments do for the execution of theirs; both governments having a common origin, or sovereign, the people; the State governments the people of each State, the National Government the people of every State, and being amenable to the power which created it. It is by executing its functions as a Government, thus originating and thus acting, that the Constitution of the United States holds the States together, and performs the office of a league. It is owing to the nature of its powers, and the high source from whence they are derived, the people, that it performs that office better than the Confederation, or any league which ever existed, being a compact which the State governments did not form, to which they are not parties, and which executes its own powers independently of them.

There were two separate and independent governments established over our Union, one for local purposes over each State, by the people of the State; the other for national purposes over all the States, by the people of the United States. The whole power of the people, on the representative principle, is divided between them. The State governments are independent of each other, and to the extent of their powers are complete sovereignties. The National Government begins where the State governments terminate, except in some instances where there is a concurrent jurisdiction between them. This Government is, also, according to the extent of its powers, a complete sovereignty. I speak here, as repeatedly mentioned before, altogether of representative sovereignties, for the real sovereignty is in the people alone.

The history of the world affords no such example of two separate and independent governments established over the same people, nor can it exist, except in governments founded on the sovereignty of the people. In monarchies, and other governments not representative, there can be no such division of power. The Government is inherent in the possessor; it is his, and cannot be taken from him without a revolution. In such Governments, alliances and leagues alone are practicable. But with us individuals count for nothing in the offices which they hold; that is, they have no right to them. They hold them as representatives, by appointment from the people, in whom the sovereignty is exclusively vested. It is impossible to speak too highly of this system, taken in its two-fold character, and in all its great principles of two governments, completely distinct from and independent of each other; each constitutional, founded by, and acting directly on the people; each competent to all its purposes, administering all the blessings for which it was instituted, without even the most remote danger of exercising any of its powers in a way to oppress the people. A system capable of expansion over a vast territory, not only without weakening either government,

but enjoying the peculiar advantage of adding, thereby, new strength and vigor to the faculties of both; possessing also this additional advantage, that, while the several States enjoy all the rights reserved to them, of separate and independent governments, and each is secured by the nature of the Federal Government, which acts directly on the people against the failure of the others, to bear their equal share of the public burdens, and thereby enjoys, in a more perfect degree, all the advantages of a league; it holds them together by a bond, altogether different and much stronger than the late Confederation, or any league that was ever known before; a bond beyond their control, and which cannot even be amended, except in the mode prescribed by it. So great an effort in favor of human happiness was never made before, but it became those who made it. Established in the new hemisphere; descended from the same ancestors; speaking the same language; having the same religion and universal toleration; born equal, and educated in the same principles of free government; made independent by a common struggle, and menaced by the same dangers; ties existed between them which never applied before to separate communities. They had every motive to bind them together, which could operate on the interests and affections of a generous, enlightened, and virtuous people; and it affords inexpressible consolation to find that these motives had their merited influence.

In thus tracing our institutions to their origin, and pursuing them in their progress and modifications, down to the adoption of this Constitution, two important facts have been disclosed, on which it may not be improper, in this stage, to make a few observations. The first is, that, in wresting the power, or what is called the sovereignty, from the Crown, it passed directly to the people. The second, that it passed directly to the people of each colony, and not to the people of all the colonies, in the aggregate; to thirteen distinct communities, and not to one. To these two facts, each contributing its equal proportion, I am inclined to think that we are, in an eminent degree, indebted for the success of our Revolution. By passing to the people, it vested in a community, every individual of which had equal rights, and a common interest. There was no family dethroned among us; no banished pretender in a foreign country, looking back to his connexions and adherents here, in the hope of a recall; no order of nobility, whose hereditary rights in the Government had been violated; no hierarchy, which had been degraded and oppressed. There was but one order, that of the people, by whom every thing was gained by the change. I mention it also as a circumstance of peculiar felicity, that the great body of the people had been born and educated under these equal and original institutions. Their habits, their principles, and their prejudices, were, therefore, all on the side of the Revolution, and of free Republican Government.

Had distinct orders existed, our fortune might, and probably would, have been different. It would scarcely have been possible to have united, so

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completely, the whole force of the country against a common enemy. A contest would probably have arisen in the outset, between the orders, for the control. Had the aristocracy prevailed, the people would have been heartless. Had the people prevailed, the nobility would probably have left the country, or, remaining behind, internal divisions would have taken place in every State, and a civil war broken out more destructive even than the foreign, which might have defeated the whole movement. Ancient and modern history is replete with examples proceeding from conflicts between distinct orders; of revolutions attempted, which proved abortive; of Republics, which have terminated in despotism. It is owing to the simplicity of the elements of which our system is composed, that the attraction of all the parts has been to a common centre; that every change has tended to cement the Union; and, in short, that we have been blessed with such glorious and happy success.

And that the power wrested from the British Crown passed to the people of each colony, the whole history of our political movement, from the emigration of our ancestors to the present day, clearly demonstrates. What produced the Revolution? The violation of our rights. What rights? Our chartered rights. To whom were the charters granted? To the people of each colony, or to the people of all the colonies as a single community? We know that no such community as the aggregate existed; and, of course, that no such rights could be violated. It may be added that the nature of the powers which were given to the delegates by each colony, and the manner in which they were executed, show that the sovereignty was in the people of each, and not in the aggregate. They respectively presented credentials, such as are usual between Ministers of separate Powers, which were examined and approved, before they entered on the discharge of the important duties committed to them. They voted, also, by colonies, and not individually; all the members from one colony being entitled to one vote only. This fact, alone, the first of our political association, and at the period of our greatest peril, fixes, beyond all controversy, the source from whence the power which has directed and secured success to all our measures, has proceeded.

Had the sovereignty passed to the aggregate, consequences might have ensued, admitting the success of our Revolution, which might, even yet, seriously affect our system. By passing to the people of each colony, the opposition to Great Britain, the prosecution of the war, the Declaration of Independence, the adoption of the Confederation, and of this Constitution, are all imputable to them. Had it passed to the aggregate, every measure would be traced to that source; even the State governments might be said to have emanated from it, and amendments of their constitutions, on that principle, be proposed by the same authority. In short, it is not easy to perceive all the consequences into which such a doctrine might lead. It is obvious, that the people, in mass, would have had much less agency in all the great measures of the revolution, and in those which followed,

than they actually had, and proportionably less credit for their patriotism and services, than they are now entitled to and enjoy. By passing to the people of each colony, the whole body in each were kept in constant and active deliberation, on subjects of the highest national importance, and in the supervision of the conduct of all the public servants, in the discharge of their respective duties. Thus the most effectual guards were provided against abuses and dangers of every kind, which human ingenuity could devise, and the whole people rendered more competent to the self-government which, by an heroic exertion, they had acquired.

I will now proceed to examine the powers of the General Government, which, like the Governments of the several States, is divided into three branches, a legislative, executive, and judiciary, each having its appropriate share. Of these, the legislative, from the nature of its powers, all laws proceeding from it, and the manner of its appointment, its members being elected immediately by the people, is by far the most important. The whole system of the National Government may be said to rest, essentially, on the powers granted to this branch. They mark the limit within which, with few exceptions, all the branches must move in the discharge of their respective functions. It will be proper, therefore, to take a full and correct view of the powers granted to it.

By the 8th section of the first article of the Constitution, it is declared that Congress shall have power—

1st. To lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defence and general welfare of the United States.

2d. To borrow money.

3d. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

4th. To establish a uniform rule of naturalization, and uniform laws respecting bankruptcies.

5th. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6th. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7th. To establish post offices and post roads.

8th. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

9th. To constitute tribunals inferior to the supreme court, to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations.

10th. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

11th. To raise and support armies.

12th. To provide and maintain a navy.

13th. To make rules for the government of the land and naval forces.

14th. To provide for calling forth the militia

to execute the laws of the Union, suppress insurrections, and repel invasions.

15th. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be in the service of the United States, reserving to the States the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

16th. To exercise exclusive legislation, in all cases whatever, over such district, (not exceeding ten miles square,) as may, by the cession of particular States, and the acceptance of, by Congress, become the Seat of Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings.

17th. And to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

To the other branches of the Government, the powers properly belonging to each, are granted. The President, in whom the executive power is vested, is made Commander-in-Chief of the Army and Navy, and Militia, when called into the service of the United States. He is authorized, with the advice and consent of the Senate, two-thirds of the members present concurring, to form treaties; to nominate, and, with the advice and consent of the Senate, to appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers whose appointments are not otherwise provided for by law. He has power to grant reprieves and pardons for offences against the United States, except in cases of impeachment. It is made his duty to give to Congress, from time to time, information of the state of the Union; to recommend to their consideration such measures as he may judge necessary and expedient; to convene both Houses on extraordinary occasions; to receive ambassadors; and to take care that the laws be faithfully executed.

The judicial power is vested in one Supreme Court, and in such inferior courts as Congress may establish; and it is made to extend to all cases, in law and equity, arising under the Constitution, the laws of the United States, and treaties made under their authority. Cases affecting ambassadors and other public characters; cases of admiralty and maritime jurisdiction; causes in which the United States are a party; between two or more States; between citizens of different States; between citizens of the same State, claiming grants of land under different States; between a State or the citizens thereof, and foreign States, are specially assigned to these tribunals.

Other powers have been granted, in other parts of the Constitution, which, although they relate to specific objects, unconnected with the ordinary administration, yet, as they form important features in the Government, and may shed useful

light on the construction which ought to be given to the powers above enumerated, it is proper to bring into view.

By article one, section nine, clause first, it is provided that the migration or importation of such persons, as any of the States, now existing, shall think proper to admit, shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation not exceeding ten dollars for each person.

By article 3, sec. 3, clause 1st, new States may be admitted by Congress into the Union, but that no new State shall be formed within the jurisdiction of another State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislature of the States concerned, as well as of the United States. And, by the next clause of the same article and section, power is vested in Congress to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States, with a proviso, that nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

By article 4, sec. 4, the United States guaranty to every State a republican form of Government, and engage to protect each of them against invasion: and, on application of the Legislature, or of the Executive, when the Legislature cannot be convened, against domestic violence.

Of the other parts of the Constitution relating to power, some form restraints on the exercise of the powers granted to Congress, and others, on the exercise of the powers remaining to the States. The object, in both instances, is, to draw, more completely, the line between the two Governments, and also to prevent abuses by either. Other parts operate like conventional stipulations between the States, abolishing between them all distinctions, applicable to foreign Powers, and securing to the inhabitants of each State all the rights and immunities of citizens in the several States.

By the fifth article, it is provided, that Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention, for proposing amendments, which, in either case, shall be valid, as a part of the Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode may be proposed by Congress; provided that no State, without its consent, shall be deprived of its equal vote in the Senate, and that no amendment which may be made prior to the year 1808, shall affect the first and fourth clauses in the ninth section of the first article.

By the second section of the sixth article, it is declared, that the Constitution, and laws of the United States which shall be made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the land; and, that the judges in every State shall be bound thereby, any thing in the Constitution

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or laws of any State, to the contrary notwithstanding. This right in the National Government to execute its powers was indispensable to its existence. If the State Governments had not been restrained from encroaching on the powers vested in the National Government, the Constitution, like the Confederation, would soon have been set at naught; and it was not within the limit of the human mind to devise any plan for the accomplishment of the object, other than by making a National Constitution, which should be, to the extent of its powers, the supreme law of the land. This right in the National Government would have existed, under the Constitution, to the full extent provided for by this declaration, had it not been made. To prevent the possibility of a doubt, however, on so important a subject, it was proper to make the declaration.

Having presented above a full view of all the powers granted to the United States, it will be proper to look to those remaining to the States. It is by fixing the great powers, which are admitted to belong to each government, that we may hope to come to a right conclusion, respecting those in controversy between them. In regard to the National Government, this task was easy, because its powers were to be found in specific grants in the Constitution; but it is more difficult to give a detail of the powers of the State governments, as their constitutions, containing all powers granted by the people, not specifically taken from them by grants to the United States, cannot well be enumerated. Fortunately, a precise detail of all the powers remaining to the State governments, is not necessary in the present instance. A knowledge of their great powers, only, will answer every purpose contemplated, and respecting these there can be no diversity in opinion. They are sufficiently recognised and established by the Constitution of the United States itself. In designating the important powers of the State governments, it is proper to observe, first, that the territory contemplated by the Constitution belongs to each State, in its separate character, and not to the United States in their aggregate character. Each State holds territory according to its original charter, except in cases where cessions have been made to the United States by individual States. The United States had none when the Constitution was adopted, which had not been thus ceded to them, and which they held on the conditions on which such cession had been made. Within the individual States, it is believed, that they held not a single acre, but, if they did, it was as citizens held it, merely as private property. The territory acquired by cession, lying without the individual States, rests on a different principle, and is provided for by a separate and distinct part of the Constitution. It is the territory within the individual States, to which the Constitution, in its great principles, applies; and, it applies to such territory as the territory of a State, and not as that of the United States. The next circumstance to be attended to, is, that the people composing this Union are the people of the several States, and not of the United States, in the full sense of a

consolidated Government. The militia are the militia of the several States; lands are held under the laws of the States; descents, contracts, and all the concerns of private property, the administration of justice, and the whole criminal code, except in the cases of breaches of the laws of the United States, made under, and in conformity with, the powers vested in Congress, and of the laws of nations, are regulated by State laws. This enumeration shows the great extent of the powers of the State governments. The territory and the people form the basis on which all governments are founded. The militia constitutes their effective force. The regulation and protection of property, and of personal liberty, are also among the highest attributes of sovereignty. This, without other evidence, is sufficient to show that the great office of the Constitution of the United States is, to unite the States together, under a Government endowed with powers adequate to the purposes of its institution, relating, directly or indirectly, to foreign concerns, to the discharge of which, a National Government, thus formed, alone, could be competent.

This view of the exclusive jurisdiction of the several States over the territory within their respective limits, except in cases otherwise specially provided for, is supported by the obvious intent of the several powers granted to Congress, to which a more particular attention is now due. Of these, the right to declare war is perhaps the most important, as well by the consequences attending war, as by the other powers granted in aid of it. The right to lay taxes, duties, imposts, and excises, though necessary for the support of the civil government, is equally necessary to sustain the charges of war; the right to raise and support armies, and a navy, and to call forth and govern the militia when in the service of the United States, are altogether of the latter kind. They are granted in aid of the power to make war, and intended to give effect to it. These several powers are of great force and extent, and operate more directly within the limits, and upon the resources of the States, than any of the other powers. But still they are means only for given ends. War is declared, and must be maintained. An army and a navy must be raised; fortifications must be erected for the common defence; debts must be paid. For these purposes duties, imposts, and excises, are levied; taxes are laid; the lands, merchandise, and other property, of the citizens are liable for them; if the money is not paid, seizures are made, and the lands are sold. The transaction is terminated; the lands pass into other hands, who hold them as the former proprietors did, under the laws of the individual States. They were means only to certain ends; the United States have nothing further to do with them. The same view is applicable to the power of the General Government over persons. The militia is called into the service of the United States; the service is performed; the corps returns to the State to which it belongs; it is the militia of such State, and not of the United States. Soldiers are required for the army, who may be obtained by voluntary enlist-

ment, or by some other process, founded in the principles of equality. In either case, the citizen, after the tour of duty is performed, is restored to his former station in society, with his equal share in the common sovereignty of the nation. In all these cases, which are the strongest which can be given, we see that the right of the General Government is nothing more than what it is called in the Constitution, a power to perform certain acts; and that the subject on which it operates is a mean only to that end; that it was, both before and after that act, under the protection, and subject to the laws, of the individual State within which it was.

To the other powers of the General Government the same remarks are applicable, and with greater force. The right to regulate commerce with foreign Powers was necessary, as well to enable Congress to lay and collect duties and imposts, as to support the rights of the nation in the intercourse with foreign Powers. It is executed at the ports of the several States, and operates almost altogether externally. The right to borrow and coin money, and to fix its value, and that of foreign coin, are important to the establishment of a national government, and particularly necessary in support of the right to declare war; as, indeed, may be considered the right to punish piracy and felonies on the high seas, and offences against the laws of nations. The right to establish a uniform rule of naturalization, and uniform laws respecting bankruptcies, seems to be essentially connected with the right to regulate commerce. The first branch of it relates to foreigners entering the country; the second to merchants who have failed. The right to promote the progress of useful arts and sciences may be executed without touching any of the individual States. It is accomplished by granting patents to inventors, and preserving models, which may be done exclusively within the Federal district. The right to constitute courts inferior to the Supreme Court, was a necessary consequence of the judiciary existing as a separate branch of the General Government. Without such inferior court in every State, it would be difficult, and might even be impossible, to carry into effect the laws of the General Government. The right to establish post offices and post roads is essentially of the same character. For political, commercial, and social purposes, it was important that it should be vested in the General Government. As a mere matter of regulation, and nothing more, I presume, was intended by it, it is a power easily executed, and involving little authority within the States individually. The right to exercise exclusive legislation, in all cases whatsoever, over the Federal district, and over forts, magazines, arsenals, dock yards, and other needful buildings, with the consent of the State within which the same may be, is a power of a peculiar character, and is sufficient in itself to confirm what has been said of all the other powers of the General Government. Of this particular grant, further notice will hereafter be taken.

I shall conclude my remarks on this part of the subject by observing that the view which has been

presented of the powers and character of the two Governments is supported by the marked difference which is observable in the manner of their endowment. The State governments are divided into three branches, a legislative, executive, and judiciary; and the appropriate duties of each assigned to it, without any limitation of power, except such as is necessary to guard against abuse, in the form of bills of right. But, in instituting the National Government, an entire different principle was adopted and pursued. The Government itself is organized, like the State governments, into three branches, but its powers are enumerated and defined in the most precise form. The subject has already been too fully explained to require illustration by a general view of the whole Constitution, every part of which affords proof of what is here advanced. It will be sufficient to advert to the eighth section of the first article, being that more particularly which defines the powers, and fixes the character, of the Government of the United States. By this section, it is declared that Congress shall have power,

1st. To lay and collect taxes, duties, imposts, and excises, &c.

Having shown the origin of the State governments, and their endowments, when first formed; having also shown the origin of the National Government, and the powers vested in it; and having shown, lastly, the powers which are admitted to have remained to the State governments, after those which were taken from them by the National Government, I will now proceed to examine whether the power to adopt and execute a system of internal improvement, by roads and canals, has been vested in the United States.

Before we can determine whether this power has been granted to the General Government, it will be necessary to ascertain, distinctly, the nature and extent of the power requisite to make such improvements. When that is done, we shall be able to decide whether such power is vested in the National Government.

If the power existed, it would, it is presumed, be executed by a board of skilful engineers, on a view of the whole Union, on a plan which would secure complete effect to all the great purposes of our Constitution. It is not my intention, however, to take up the subject here, on this scale. I shall state a case for the purpose of illustration only. Let it be supposed that Congress intended to run a road from the City of Washington to Baltimore, and to connect the Chesapeake Bay with the Delaware, and the Delaware with the Raritan, by a canal—what must be done to carry the project into effect? I make here no question of the existing power. I speak only of the power necessary for the purpose. Commissioners would be appointed to trace a route, in the most direct line, paying due regard to heights, water-courses, and other obstacles, and to acquire the right to the ground over which the road and canal would pass, with sufficient breadth for each. This must be done by voluntary grants, or by purchases from individuals, or, in case they would not sell, or should ask an exorbitant price, by condemning

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the property and fixing its value by a jury of the vicinage. The next object to be attended to, after the road and canal are laid out and made, is to keep them in repair. We know that there are people in every community capable of committing voluntary injuries; of pulling down walls that are made to sustain the road; of breaking the bridges over water-courses, and breaking the road itself. Some living near it might be disappointed that it did not pass through their lands, and commit these acts of violence and waste, from revenge, or in the hope of giving it that direction, though for a short time. Injuries of this kind have been committed, and are still complained of, on the road from Cumberland to the Ohio. To accomplish this object Congress should have a right to pass laws to punish offenders, wherever they may be found. Jurisdiction over the road would not be sufficient, though it were exclusive. It would seldom happen that the parties would be detected in the act. They would generally commit it in the night, and fly far off before the sun appeared. The power to punish these culprits must, therefore, reach them wherever they go. They must, also, be amenable to competent tribunals, Federal or State. The power must likewise extend to another object, not less essential or important than those already mentioned. Experience has shown that the establishment of turnpikes, with gates and tolls, and persons to collect the tolls, is the best expedient that can be adopted to defray the expense of these improvements, and the repairs which they necessarily require. Congress must, therefore, have power to make such an establishment, and to support it, by such regulations, with fines and penalties, in the case of injuries, as may be competent to the purpose. The right must extend to all those objects, or it will be utterly incompetent. It is possessed and exercised by the States individually, and it must be possessed by the United States, or the pretension must be abandoned.

Let it be further supposed that Congress, believing that they do possess the power, have passed an act for those purposes, under which commissioners have been appointed, who have begun the work. They are met at the first farm on which they enter, by the owner, who forbids them to trespass on his land. They offer to buy it at a fair price, or at twice or thrice its value. He persists in his refusal. Can they, on the principle recognised and acted on by all the State governments, that, in cases of this kind, the obstinacy and perverseness of an individual must yield to the public welfare, summon a jury of upright and discreet men to condemn the land, value it, and compel the owner to receive the amount, and to deliver it up to them? I believe that very few would concur in the opinion that such a power exists.

The next object is, to preserve these improvements from injury. The locks of the canal are broken; the walls which sustained the road are pulled down; the bridges are broken; the road itself is ploughed up; toll is refused to be paid; the gates of the canal or turnpike are forced. The

offenders are pursued, caught, and brought to trial. Can they be punished? The question of right must be decided on principle. The culprits will avail themselves of every barrier that may serve to screen them from punishment. They will plead that the law, under which they stand arraigned, is unconstitutional, and that question must be decided by the court, whether Federal or State, on a fair investigation of the powers vested in the General Government by the Constitution. If the judges find that these powers have not been granted to Congress, the prisoners must be acquitted; and, by their acquittal, all claim to the right to establish such a system is at an end.

I have supposed an opposition to be made to the right in Congress, by the owner of the land, and other individuals charged with breaches of laws, made to protect the works from injury, because it is the mildest form in which it can present itself. It is not, however, the only one. A State, also, may contest the right, and then the controversy assumes another character. Government might contend against Government; for, to a certain extent, both the Governments are sovereign and independent of each other, and in that form it is possible, though not probable, that opposition might be made. To each, limitations are prescribed, and should a contest rise between them, respecting their rights, and the people sustain it with any thing like an equal division of numbers, the worst consequences might ensue.

It may be urged that the opposition suggested by the owner of the land, or by the States individually, may be avoided by a satisfactory arrangement with the parties. But a suppression of opposition in that way, is no proof of a right in Congress; nor could it, if confined to that limit, remove all the impediments to the exercise of the power. It is not sufficient that Congress may, by the command and application of the public revenue, purchase the soil, and thus silence that class of individuals; or, by the accommodation afforded to individual States, put down opposition on their part. Congress must be able rightfully to control all opposition, or they cannot carry the system into effect. Cases would inevitably occur to put the right to the test. The work must be preserved from injury; tolls must be collected; offenders must be punished. With these culprits no bargain can be made. When brought to trial, they must deny the validity of the law, and that plea being sustained, all claim to the right ceases.

If the United States possess this power, it must be, either because it has been specifically granted, or that it is incidental, and necessary to carry into effect some specific grant. The advocates for the power derive it from the following sources: 1st. The right to establish post offices and post roads; 2d. To declare war; 3d. To regulate commerce among the several States; 4th. From the power to pay the debts and provide for the common defence and general welfare of the United States; 5th. From the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Govern-

ment of the United States, or in any department or officer thereof; 6th, and lastly. From the power to dispose of, and make all needful rules and regulations respecting, the territory and other property of the United States. It is to be observed, that there is but little accord among the advocates for this power, as to the particular source from whence it is derived. They all agree, however, in ascribing it to some one or more of those above mentioned. I will examine the ground of the claim in each instance.

The first of these grants is in the following words: "Congress shall have power to establish post offices and post roads." What is the just import of these words, and the extent of the grant? The word "establish" is the ruling term; "post offices and post roads" are the subjects on which it acts. The question, therefore, is, what power is granted by that word? The sense in which words are commonly used, is that in which they are to be understood in all transactions between public bodies and individuals. The intention of the parties is to prevail, and there is no better way of ascertaining it, than by giving to the terms used their ordinary import. If we were to ask any number of our most enlightened citizens, who had no connexion with public affairs, and whose minds were unprejudiced, what was the import of the word "establish," and the extent of the grant which it controls, we do not think there would be any difference of opinion among them. We are satisfied that all of them would answer, that a power was thereby given to Congress to fix on the towns, court-houses, and other places, throughout our Union, at which there should be post offices; the routes by which the mails should be carried from one post office to another, so as to diffuse intelligence as extensively, and to make the institution as useful as possible; to fix the postage to be paid on every letter and packet thus carried to support the establishment; and to protect the post office and mails from robbery, by punishing those who should commit the offence. The idea of a right to lay off the roads of the United States on a general scale of improvement; to take the soil from the proprietor by force; to establish turn-pikes and tolls, and to punish offenders in the manner stated above, would never occur to any such person. The use of the existing road by the stage, mail carrier, or post boy, in passing over it, as others do, is all that would be thought of; the jurisdiction and soil remaining to the State, with a right in the State, or those authorized by its Legislature, to change the road at pleasure.

The intention of the parties is supported by other proof, which ought to place it beyond all doubt. In the former act of Government—the Confederation—we find a grant for the same purpose expressed in the following words: "The United States in Congress assembled, shall have the sole and exclusive right and power of establishing and regulating post offices from one State to another, throughout the United States, and of exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of said post office." The term

"establish" was likewise the ruling one in that instrument, and was evidently intended and understood to give a power simply and solely to fix where there should be post offices. By transferring this term from the Confederation into the Constitution, it was doubtless intended that it should be understood in the same sense in the latter that it was in the former instrument, and to be applied alike to post offices and post roads. In whatever sense it is applied to post offices, it must be applied in the same sense to post roads. But it may be asked, if such was the intention, why were not all the other terms of the grant transferred with it? The reason is obvious. The Confederation being a bond of union between independent States, it was necessary, in granting the powers which were to be exercised over them, to be very explicit and minute in defining the powers granted. But the Constitution, to the extent of its powers, having incorporated the States into one government, like the government of the States, individually, fewer words in defining the powers granted by it, were not only adequate, but perhaps better adapted to the purpose. We find that brevity is a characteristic of the instrument. Had it been intended to convey a more enlarged power in the Constitution than had been granted in the Confederation, surely the same controlling term would not have been used; or other words would have been added to show such intention, and to mark the extent to which the power should be carried. It is a liberal construction of the powers granted in the Constitution, by this term, to include in it all the powers that were granted in the Confederation, by terms which specifically defined and (as was supposed) extended their limits. It would be absurd to say that, by omitting from the Constitution any portion of the phraseology which was deemed important in the Confederation, the import of that term was enlarged, and with it the powers of the Constitution, in a proportional degree, beyond what they were in the Confederation. The right to exact postage and to protect the post offices and mails from robbery, by punishing the offenders, may fairly be considered as incidents to the grant, since, without it, the object of the grant might be defeated. Whatever is absolutely necessary to the accomplishment of the object of the grant, though not specified, may fairly be considered as included in it. Beyond this, the doctrine of incidental power cannot be carried.

If we go back to the origin of our settlements and institutions, and trace their progress down to the Revolution, we shall see that it was in this sense, and in none other, that the power was exercised by all our colonial governments. Post offices were made for the country, and not the country for them. They are the offspring of improvement. They never go before it. Settlements are first made; after which the progress is uniform and simple, extending to objects in regular order most necessary to the comfort of man; schools, places of public worship, court-houses, and markets; post offices follow. Roads may, indeed, be said to be coeval with settlements. They lead to all the

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places mentioned, and to every other which the various and complicated interests of society require.

It is believed that not one example can be given, from the first settlement of our country to the adoption of this Constitution, of a post office being established without a view to existing roads; or of a single road having been made by pavement, turnpike, &c., for the sole purpose of accommodating a post office. Such, too, is the uniform progress of all societies. In granting, then, this power to the United States, it was, undoubtedly, intended by the framers and ratifiers of the Constitution, to convey it in the sense and extent only in which it had been understood and exercised by the previous authorities of the country.

This conclusion is confirmed by the object of the grant, and the manner of its execution. The object is the transportation of the mail throughout the United States, which may be done on horseback, and was so done until lately, since the establishment of stages. Between the great towns, and in other places where the population is dense, stages are preferred, because they afford an additional opportunity to make a profit from passengers. But where the population is sparse, and on cross-roads, it is generally carried on horseback. Unconnected with passengers and other objects, it cannot be doubted that the mail itself may be carried in every part of our Union, with nearly as much economy and greater despatch on horseback than in a stage, and in many parts with much greater. In every part of the Union in which stages can be preferred, the roads are sufficiently good, provided those which serve for every other purpose will accommodate them. In every other part, where horses alone are used, if other people pass them on horseback surely the mail carrier can. For an object so simple, and so easy in its execution, it would, doubtless, excite surprise, if it should be thought proper to appoint commissioners to lay off the country on a great scheme of improvement, with the power to shorten distances, reduce heights, level mountains, and pave surfaces.

If the United States possessed the power contended for under this grant, might they not, in adopting the roads of the individual States for the carriage of the mail, as has been done, assume jurisdiction over them, and preclude a right to interfere with or alter them? Might they not establish turnpikes, and exercise all the other acts of sovereignty above stated, over such roads necessary to protect them from injury, and defray the expense of repairing them? Surely, if the right exists, these consequences necessarily followed, as soon as the road was established. The absurdity of such a pretension must be apparent to all who examine it. In this way a large portion of the territory of every State might be taken from it, for there is scarcely a road in any State which will not be used for the transportation of the mail. A new field for legislation and internal government would thus be opened.

From this view of the subject, I think we may fairly conclude, that the right to adopt and execute a system of internal improvement, or any part

of it, has not been granted to Congress under the power to establish post offices and post roads; that the common roads of the country only were contemplated by that grant, and are fully competent to all its purposes.

The next object of inquiry is, whether the right to declare war includes the right to adopt and execute this system of improvement. The objections to it are, I presume, not less conclusive than those which are applicable to the grant which we have just examined.

Under the last mentioned grant, a claim has been set up to as much of that system as relates to roads. Under this, it extends alike to roads and canals.

We must examine this grant by the same rules of construction that were applied to the preceding one. The object was to take this power from the individual States, and to vest it in the General Government. This has been done in clear and explicit terms—first, by granting the power to Congress; and, secondly, by prohibiting the exercise of it by the States. Congress shall have a right to declare war. This is the language of the grant. If the right to adopt and execute this system of improvement is included in it, it must be by way of incident only, since there is nothing in the grant itself which bears any relation to roads and canals. The following considerations, it is presumed, prove, incontestably, that this power has not been granted in that or any other manner:

The United States are exposed to invasion through the whole extent of their Atlantic coast, by any European Power with whom we might be engaged in war; on the northern and northwestern frontier, on the side of Canada by Great Britain, and on the southern by Spain, or any Power in alliance with her. If internal improvements are to be carried to the full extent to which they may be useful for military purposes, the power as it exists must apply to all the roads of the Union, there being no limitation to it. Wherever such improvements may facilitate the march of troops, the transportation of cannon, or otherwise aid the operations or mitigate the calamities of war, along the coast or in any part of the interior, they would be useful for military purposes, and might, therefore, be made. The power following as an incident to another power can be measured, as to its extent, by reference only to the obvious extent of the power to which it is incidental. So great a scope was, it is believed, never given to incidental power.

If it had been intended that the right to declare war should include all the powers necessary to maintain war, it would follow that nothing would have been done to impair the right, or to restrain Congress from the exercise of any power which the exigencies of war might require. The nature and extent of this exigency would mark the extent of the power granted, which should always be construed liberally, so as to be adequate to the end. A right to raise money by taxes, duties, excises, and by loan; to raise and support armies and a navy; to provide for calling forth, arming, disciplining, and governing the militia when in

the service of the United States; establishing fortifications, and governing the troops stationed in them, independently of the State authorities, and to perform many other acts, is indispensable to the maintenance of war. No war with any great Power can be prosecuted with success without the command of the resources of the Union in all these respects. These powers, then, would of necessity, and by common consent, have fallen within the right to declare war, had it been intended to convey, by way of incident to that right, the necessary powers to maintain war. But these powers have all been granted specifically, with many others, in great detail, which experience had shown were necessary for the purposes of war. By specifically granting, then, these powers, it is manifest that every power was thus granted which it was intended to grant for military purposes; and that it was also intended that no important power should be included in this grant by way of incident, however useful it might be for some of the purposes of the grant.

By the sixteenth of the enumerated powers, article 1, section 8, Congress are authorized to exercise exclusive legislation in all cases whatever over such district as may by cession of particular States and the acceptance of Congress, not exceeding ten miles square, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other useful buildings. If any doubt existed on a view of other parts of the Constitution respecting the decision which ought to be formed on the question under consideration, I should suppose that this clause would completely remove it. It has been shown, after the most liberal construction of all the enumerated powers of the General Government, that the territory within the limits of the respective States belonged to them; that the United States had no right, under the powers granted to them, with the exception specified in this grant, to any the smallest portion of territory within a State, all those powers operating on a different principle, and having their full effect without impairing, in the slightest degree, this right in the States; that those powers were in every instance means to ends, which, being accomplished, left the subject, that is, the property, in which light only, land could be regarded, where it was before—under the jurisdiction and subject to the laws of the State governments.

The second number of the clause, which is applicable to military and naval purposes alone, claims particular attention here. It fully confirms the view taken of the other enumerated powers; for, had it been intended to include in the right to declare war, by way of incident, any right of jurisdiction or legislation over territory within a State, it would have been done as to fortifications, magazines, arsenals, dock yards, and other needful buildings. By specifically granting the right, as to such small portions of territory as might be necessary for these purposes, and on cer-

tain conditions, minutely and well defined, it is manifest that it was not intended to grant it, as to any other portion, on any condition, for any purpose, or in any manner whatsoever.

It may be said that, although the authority to exercise exclusive legislation in certain cases, within the States, with their consent, may be considered as a prohibition to Congress to exercise like exclusive legislation in any other case, although their consent should be granted, it does not prohibit the exercise of such jurisdiction or power, within a State, as would be competent to all the purposes of internal improvement. I can conceive no ground on which the idea of such a power over any part of the territory of a State can be inferred from the power to declare war. There never can be an occasion for jurisdiction for military purposes, except in fortifications, dock yards, and the like places. If the soldiers are in the field, or are quartered in garrisons without the fortifications, the civil authority must prevail where they are. The government of the troops by martial law is not affected by it. In war, when the forces are increased, and the movement is on a greater scale, consequences follow which are inseparable from the exigencies of the State. More freedom of action, and a wider range of power, in the military commanders, to be exercised on their own responsibility, may be necessary to the public safety; but, even here, the civil authority of the State never ceases to operate. It is also exclusive for all civil purposes.

Whether any power short of that stated, would be adequate to the purposes of internal improvement, is denied. In the case of territory, one government must prevail for all the purposes intended by the grant. The jurisdiction of the United States might be modified in such manner as to admit that of the State in all cases and for all purposes not necessary to the execution of the proposed power. But the right of the General Government must be complete for all the purposes above stated. It must extend to the seizure and condemnation of the property, if necessary; to the punishment of offenders for injuries to the roads and canals; to the establishment and enforcement of tolls, &c. It must be a complete right to the extent above stated, or it will be of no avail. That right does not exist.

The reasons which operate in favor of the right of exclusive legislation in forts, dock yards, &c., do not apply to any other places. The safety of such works, and of the cities which they are intended to defend, and even of whole communities, may sometimes depend on it. If spies are admitted within them in time of war, they might communicate intelligence to the enemy which might be fatal. All nations surround such works with high walls, and keep their gates shut. Even here, however, three important conditions are indispensable to such exclusive legislation: First, the ground must be requisite for, and be applied to, those purposes; second, it must be purchased; third, it must be purchased by the consent of the State in which it may be. When we find that so much care has been taken to protect the sover-

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eighty of the States over the territory within their respective limits, admitting that of the United States over such small portions, and for such special and important purposes only, the conclusion is irresistible, not only that the power necessary for internal improvements has not been granted, but that it has been clearly prohibited.

I come next to the right to regulate commerce, the third source from whence the right to make internal improvements is claimed. It is expressed in the following words: "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The reasoning applicable to the preceding claims is equally so to this. The mischief complained of was, that this power could not be exercised with advantage by the individual States, and the object was to transfer it to the United States. The sense in which the power was understood and exercised by the States, was doubtless that in which it was transferred to the United States. The policy was the same as to three branches of this grant, and it is scarcely possible to separate the two first from each other, in any view which may be taken of the subject. The last relating to the Indian tribes, is of a nature distinct from the others, for reasons too well known to require explanation. Commerce between independent Powers or communities, is universally regulated by duties and imposts. It was so regulated by the States before the adoption of this Constitution, equally in respect to each other and to foreign Powers. The goods and vessels employed in the trade are the only subjects of regulation. It can act on none other. A power, then, to impose such duties and imposts, in regard to foreign nations, and to prevent any on the trade between the States, was the only power granted.

If we recur to the causes which produced the adoption of this Constitution, we shall find that injuries resulting from the regulation of trade, by the States, respectively, and the advantages anticipated from the transfer of the power to Congress, were among those which had the most weight. Instead of acting as a nation in regard to foreign powers, the States, individually, had commenced a system of restraint on each other, whereby the interests of foreign Powers were promoted at their expense. If one State imposed high duties on the goods or vessels of a foreign Power, to countervail the regulations of such Power, the next adjoining States imposed lighter duties, to invite those articles into their ports, that they might be transferred thence into the other States, securing the duties to themselves. This contracted policy in some of the States was soon counteracted by others. Restraints were immediately laid on such commerce by the suffering States, and thus had grown up a state of affairs, disorderly and unnatural, the tendency of which, was, to destroy the Union itself, and with it, all hope of realizing those blessings, which we had anticipated from the glorious revolution which had been so recently achieved. From this deplorable dilemma, or rather certain ruin, we were happily rescued by the adoption of the Constitution.

Among the first and most important effects of this great revolution, was the complete abolition of this pernicious policy. The States were brought together by the Constitution, as to commerce, into one community, equally, in regard to foreign nations and each other. The regulations that were adopted, regarded us, in both respects, as one people. The duties and imposts that were laid on the vessels and merchandise of foreign nations, were all uniform throughout the United States, and, in the intercourse between the States themselves, no duties of any kind were imposed, other than between different ports and counties within the same State.

This view is supported by a series of measures, all of a marked character, preceding the adoption of the Constitution. As early as the year 1781, Congress recommended it to the States to vest in the United States a power to levy a duty of five per cent. on all goods imported from foreign countries into the United States, for the term of fifteen years. In 1783, this recommendation, with alterations as to the kind of duties, and an extension of this term to twenty-five years, was repeated, and more earnestly urged. In 1784, it was recommended to the States to authorize Congress to prohibit, under certain modifications, the importation of goods from foreign Powers into the United States for fifteen years. In 1785, the consideration of the subject was resumed, and a proposition presented in a new form, with an address to the States, explaining fully the principles on which a grant of the power to regulate trade was deemed indispensable. In 1786, a meeting took place at Annapolis, of delegates from several of the States, on this subject, and, on their report, a convention was formed at Philadelphia the ensuing year, from all the States, to whose deliberations we are indebted for the present Constitution.

In none of these measures was the subject of internal improvement mentioned, or even glanced at. Those of 1784, 5, 6, and 7, leading, step by step, to the adoption of the Constitution, had in view, only, the obtaining of a power to enable Congress to regulate trade with foreign Powers. It is manifest that the regulation of trade with the several States, was altogether a secondary object, suggested by and adopted in connexion with the other. If the power necessary to this system of improvement is included under either branch of this grant, I should suppose that it was the first, rather than the second. The pretension to it, however, under that branch has never been set up. In support of the claim, under the second, no reason has been assigned which appears to have the least weight.

The fourth claim is founded on the right of Congress to "pay the debts and provide for the common defence and general welfare" of the United States. This claim has less reason on its side, than either of those which we have already examined. The power of which this forms a part is expressed in the following words: "Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the

"United States; but all duties, imposts, and excises, shall be uniform throughout the United States."

That the second part of this grant gives a right to appropriate the public money, and nothing more, is evident, from the following considerations:

1. If the right of appropriation is not given by this clause, it is not given at all—there being no other grant in the Constitution which gives it directly, or which has any bearing on the subject, even by implication, except the two following: First, the prohibition which is contained in the eleventh of the enumerated powers not to appropriate money for the support of armies for a longer term than two years; and, second, the declaration of the sixth member or clause of the ninth section of the first article, that no money shall be drawn from the Treasury, but in consequence of appropriations made by law.

2. This part of the grant has none of the characteristics of a distinct and original power. It is manifestly incidental to the great objects of the first part of the grant, which authorizes Congress to lay and collect taxes, duties, imposts, and excises—a power of vast extent, not granted by the Confederation—the grant of which formed one of the principal inducements to the adoption of this Constitution. If both parts of the grant are taken together, (as they must be, for the one follows immediately after the other in the same sentence,) it seems to be impossible to give to the latter any other construction than that contended for. Congress shall have power to lay and collect taxes, duties, imposts, and excises. For what purpose? To pay the debts and provide for the common defence and general welfare of the United States—an arrangement and phraseology which clearly show that the latter part of the clause was intended to enumerate the purposes to which the money thus raised might be appropriated.

3. If this is not the real object and fair construction of the second part of this grant, it follows either that it has no import or operation whatever on one of much greater extent than the first part. This presumption is evidently groundless in both instances—in the first, because no part of the Constitution can be considered useless—no sentence or clause in it without a meaning. In the second, because such a construction as made the second part of the clause an original grant, embracing the same object with the first, but with much greater power than it, would be in the highest degree absurd. The order generally observed in grants—an order founded in common sense, since it promotes a clear understanding of their import—is to grant the power intended to be conveyed in the most full and explicit manner, and then to explain or qualify it, if explanation or qualification should be necessary. This order has, it is believed, been invariably observed, in all the grants contained in the Constitution. In the second, because, if the clause in question is not construed merely as an authority to appropriate the public money, it must be obvious that it conveys a power of indefinite and unlimited extent—that

there would have been no use for the special powers to raise and support armies and a navy; to regulate commerce; to call forth the militia; or even to lay and collect taxes, duties, imposts, and excises. An unqualified power to pay the debts and provide for the common defence and general welfare, as the second part of this clause would be, if considered as a distinct and separate grant, would extend to every object in which the public could be interested. A power to provide for the common defence would give to Congress the command of the whole force, and of all the resources of the Union. But a right to provide for the general welfare would go much further. It would, in effect, break down all the barriers between the States and the General Government, and consolidate the whole under the latter.

The powers specifically granted to Congress, are what are called the enumerated powers, and are numbered in the order in which they stand, among which, that contained in the first clause, holds the first place in point of importance. If the power created by the latter part of the clause is considered an original grant, unconnected with, and independent of, the first, as in that case it must be, then the first part is entirely done away, as are all the other grants in the Constitution, being completely absorbed in the transcendent power granted in the latter part. But if the clause be construed in the sense contended for, then every part has an important meaning and effect; not a line, a word, in it, is superfluous. A power to lay and collect taxes, duties, imposts, and excises, subjects to the call of Congress every branch of the public revenue, internal and external; and the addition to pay the debts and provide for the common defence and general welfare, gives the right of applying the money raised, that is, of appropriating it to the purposes specified, according to a proper construction of the terms. Hence, it follows, that it is the first part of the clause only which gives a power which affects in any manner the power remaining to the States; as the power to raise money from the people, whether it be by taxes, duties, imposts, or excises, though concurrent in the States, as to taxes and excises, must necessarily do. But the use or application of the money, after it is raised, is a power altogether of a different character. It imposes no burden on the people, nor can it act on them in a sense to take power from the States, or in any sense in which power can be controverted, or become a question between the two governments. The application of money raised under a lawful power, is a right or grant which may be abused. It may be applied partially among the States, or to improper purposes in our foreign and domestic concerns; but still it is a power not felt in the sense of other power, since the only complaint which any State can make of such partiality and abuse, is, that some other State or States have obtained greater benefit from the application, than by a just rule of apportionment they were entitled to. The right of appropriation is, therefore, from its nature, secondary and incidental to the right of raising money, and it was proper to place it in the

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same grant and same clause with that right. By finding them, then, in that order, we see a new proof of the sense in which the grant was made, corresponding with the view herein taken of it.

The last part of this grant, which provides that all duties, imposts, and excises, shall be uniform throughout the United States, furnishes another strong proof that it was not intended that the second part should constitute a distinct grant, in the sense above stated, or convey any other right than that of appropriation. This provision operates exclusively on the power granted in the first part of the clause. It recites three branches of that power—duties, imposts, and excises—those only on which it could operate; the rule by which the fourth, that is, taxes, should be laid, being already provided for in another part of the Constitution. The object of this provision is to secure a just equality among the States in the exercise of that power by Congress. By placing it after both the grants, that is, after that to raise and that to appropriate the public money, and making it apply to the first only, it shows that it was not intended that the power granted in the second should be paramount to, and destroy, that granted in the first. It shows, also, that no such formidable power as that suggested had been granted in the second, or any power, against the abuse of which it was thought necessary specially to provide. Surely, if it was deemed proper to guard a specific power of limited extent and well known import, against injustice and abuse, it would have been much more so to have guarded against the abuse of a power of such vast extent, and so indefinite, as would have been granted by the second part of the clause, if considered as a distinct and original grant.

With this construction all the other enumerated grants, and indeed all the grants of power, contained in the Constitution, have their full operation and effect. They all stand well together, fulfilling the great purposes intended by them. Under it we behold a great scheme, consistent in all its parts, a Government instituted for national purposes, vested with adequate powers for those purposes, commencing with the most important of all, that of the revenue, and proceeding, in regular order, to the others, with which it was deemed proper to endow it, all too drawn with the utmost circumspection and care. How much more consistent is this construction, with the great objects of the institution, and with the high character of the enlightened and patriotic citizens who framed it, as well as of those who ratified it, than one which subverts every sound principle and rule of construction and throw every thing into confusion.

I have dwelt thus long on this part of the subject, from an earnest desire to fix, in a clear and satisfactory manner, the import of the second part of this grant, well knowing, from the generality of the terms used, their tendency to lead into error. I indulge a strong hope that the view herein presented will not be without effect, but will tend to satisfy the unprejudiced and impartial that nothing more was granted, by that part, than a power to *appropriate* the public money raised under the other

part. To what extent that power may be carried will be the next object of inquiry.

It is contended, on the one side, that, as the National Government is a Government of limited powers, it has no right to expend money, except in the performance of acts authorized by the other specific grants, according to a strict construction of their powers; that this grant, in neither of its branches, gives to Congress discretionary power of any kind, but is a mere instrument, in its hands, to carry into effect the powers contained in the other grants. To this construction I was inclined in the more early stage of our Government; but, on further reflection and observation, my mind has undergone a change, for reasons which I will frankly unfold.

The grant consists, as heretofore observed, of a two-fold power; the first to raise, the second to appropriate, the public money, and the terms used in both instances are general and unqualified. Each branch was obviously drawn with a view to the other, and the import of each tends to illustrate that of the other. The grant to raise money, gives a power over every subject from which revenue may be drawn, and is made in the same manner with the grants to declare war, to raise and support armies and a navy, to regulate commerce, to establish post offices and post roads, and with all the other specific grants to the General Government. In the discharge of the powers contained in any of these grants, there is no other check, than that which is to be found in the great principles of our system, the responsibility of the Representative to his constituents. If war, for example, is necessary, and Congress declare it for good cause, their constituents will support them in it. A like support will be given them for the faithful discharge of their duties under any and every other power vested in the United States. It affords to the friends of our free governments the most heart-felt consolation to know, and from the best evidence, our own experience, that, in great emergencies, the boldest measures, such as form the strongest appeals to the virtue and patriotism of the people, are sure to obtain the most decided approbation. But should the Representative act corruptly, and betray his trust, or otherwise prove that he was unworthy of the confidence of his constituents, he would be equally sure to lose it, and to be removed and otherwise censured, according to his deserts. The power to raise money by taxes, duties, imposts, and excises, is alike unqualified, nor do I see any check on the exercise of it, other than that which applies to the other powers above recited, the responsibility of the Representative to his constituents. Congress know the extent of the public engagements, and the sums necessary to meet them; they know how much may be derived from each branch of revenue without pressing it too far; and, paying due regard to the interests of the people, they likewise know which branch ought to be resorted to, in the first instance. From the commencement of the Government, two branches of this power, duties and imposts, have been in constant operation, the revenue from which has supported the Government

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in its various branches, and met its other ordinary engagements. In great emergencies, the other two, taxes and excises, have likewise been resorted to, and neither was the right or the policy ever called in question.

If we look to the second branch of this power, that which authorizes the appropriation of the money thus raised, we find that it is not less general and unqualified than the power to raise it. More comprehensive terms than to "pay the debts and provide for the common defence and general welfare," could not have been used. So intimately connected with and dependent on each other are these two branches of power, that, had either been limited, the limitation would have had the like effect on the other. Had the power to raise money been conditional, or restricted to special purposes, the appropriation must have corresponded with it, for none but the money raised could be appropriated, nor could it be appropriated to other purposes than those which were permitted. On the other hand, if the right of appropriation had been restricted to certain purposes, it would be useless and improper to raise more than would be adequate to those purposes. It may fairly be inferred these restraints or checks have been carefully and intentionally avoided. The power, in each branch, is alike broad and unqualified, and each is drawn with peculiar fitness to the other; the latter requiring terms of great extent and force to accommodate the former, which have been adopted, and both placed in the same clause and sentence. Can it be presumed that all these circumstances were so nicely adjusted by mere accident? Is it not more just to conclude that they were the result of due deliberation and design? Had it been intended that Congress should be restricted in the appropriation of the public money to such expenditures as were authorized by a rigid construction of the other specific grants, how easy would it have been to have provided for it by a declaration to that effect. The omission of such declaration is, therefore, an additional proof that it was not intended that the grant should be so construed.

It was evidently impossible to have subjected this grant, in either branch, to such restriction, without exposing the Government to very serious embarrassment. How carry it into effect? If the grant had been made in any degree dependent upon the States, the Government would have experienced the fate of the Confederation. Like it, it would have withered and soon perished. Had the Supreme Court been authorized, or should any other tribunal, distinct from the Government, be authorized, to impose its veto, and to say that more money had been raised under either branch of this power, that is, by taxes, duties, imposts, or excises, than was necessary; that such a tax or duty was useless; that the appropriation to this or that purpose was unconstitutional—the movement might have been suspended, and the whole system disorganized. It was impossible to have created a power within the Government, or any other power, distinct from Congress and the Executive, which should control the movement of the Government

in this respect, and not destroy it. Had it been declared, by a clause in the Constitution, that the expenditures under this grant should be restricted to the construction which might be given of the other grants, such restraint, though the most innocent, could not have failed to have had an injurious effect on the vital principles of the Government, and often on its most important measures. Those who might wish to defeat a measure proposed, might construe the power relied on in support of it in a narrow and contracted manner, and in that way fix a precedent inconsistent with the true import of the grant. At other times, those who favored a measure, might give to the power relied on a forced or strained construction, and, succeeding in the object, fix a precedent in the opposite extreme. Thus it is manifest that, if the right of appropriation be confined to that limit, measures may oftentimes be carried or defeated by considerations and motives altogether independent of, and unconnected with their merits, and the several powers of Congress receive constructions equally inconsistent with their true import. No such declaration, however, has been made, and from the fair import of the grant, and, indeed, its positive terms, the inference that such was intended seems to be precluded.

Many considerations of great weight operate in favor of this construction, while I do not perceive any serious objections to it. If it be established, it follows that the words "to provide for the common defence and general welfare," have a definite, safe, and useful meaning. The idea of their forming an original grant, with unlimited power, superseding every other grant, is abandoned. They will be considered, simply, as conveying a right of appropriation; a right indispensable to that of raising a revenue, and necessary to expenditures under every grant. By it, as already observed, no new power will be taken from the States, the money to be appropriated being raised under a power already granted to Congress. By it, too, the motive for giving a forced or strained construction to any of the other specific grants will, in most instances be diminished, and in many utterly destroyed. The importance of this consideration cannot be too highly estimated, since, in addition to the examples already given, it ought particularly to be recollected that, to whatever extent any specified power may be carried, the right of jurisdiction goes with it, pursuing it through all its incidents. The very important agency which this grant has in carrying into effect every other grant, is a wrong argument in favor of the construction contended for. All the other grants are limited by the nature of the offices which they have severally to perform, each conveying a power to do a certain thing, and that only, whereas this is co-extensive with the great scheme of the Government itself. It is the lever which raises and puts the whole machinery in motion, and continues the movement. Should either of the other grants fail, in consequence of any condition or limitation attached to it, or misconstruction of its powers, much injury might follow, but still it would be the failure of one branch of power, of one item

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in the system only. All the others might move on. But should the right to raise and appropriate the public money be improperly restricted, the whole system might be sensibly affected, if not disorganized. Each of the other grants is limited by the nature of the grant itself. This, by the nature of the Government only. Hence, it became necessary, that, like the power to declare war, this power should be commensurate with the great scheme of the Government, and with all its purposes.

If then the right to raise and appropriate the public money is not restricted to the expenditures under the other specific grants, according to a strict construction of their powers, respectively, is there no limitation to it? Have Congress a right to raise and appropriate the money to any, and to every purpose, according to their will and pleasure? They certainly have not. The Government of the United States is a limited Government, instituted for great national purposes, and for those only. Other interests are committed to the States, whose duty it is to provide for them. Each Government should look to the great and essential purposes for which it was instituted, and confine itself to those purposes. A State government will rarely, if ever, apply money to national purposes, without making it a charge to the nation. The people of the State would not permit it. Nor will Congress be apt to apply money in aid of the State administrations, for purposes strictly local, in which the nation at large has no interest, although the State should desire it. The people of the other States would condemn it. They would declare that Congress had no right to tax them for such a purpose, and dismiss, at the next election, such of their representatives as had voted for the measure, especially if it should be severely felt. I do not think that in offices of this kind, there is much danger of the two Governments mistaking their interests or their duties. I rather expect that they would soon have a clear and distinct understanding of them, and move on in great harmony.

Good roads and canals will promote many very important national purposes. They will facilitate the operations of war, the movements of troops, the transportation of cannon, of provisions, and every warlike store, much to our advantage, and to the disadvantage of the enemy in time of war. Good roads will facilitate the transportation of the mail, and thereby promote the purposes of commerce and political intelligence among the people. They will, by being properly directed to these objects, enhance the value of our vacant lands, a treasure of vast resource to the nation. To the appropriation of the public money to improvements, having these objects in view, and carried to a certain extent, I do not see any well founded Constitutional objection.

In regard to our foreign concerns, provided they are managed with integrity and ability, great liberality is allowable in the application of the public money. In the management of these concerns, no State interests can be affected, no State rights violated. The complete and exclusive control over them is vested in Congress. The power to form

treaties of alliance and commerce with foreign Powers; to regulate by law our commerce with them; to determine on peace or war; to raise armies and a navy; to call forth the militia, and direct their operations, belongs to the General Government. These great powers, embracing the whole scope of our foreign relations, being granted, on what principle can it be said that the minor are withheld? Are not the latter clearly and evidently comprised in the former? Nations are sometimes called upon to perform to each other acts of humanity and kindness, of which we see so many illustrious examples between individuals in private life. Great calamities make appeals to the benevolence of mankind, which ought not to be resisted. Good offices in such emergencies exalt the character of the party rendering them. By exciting grateful feelings they soften the intercourse between nations, and tend to prevent war. Surely, if the United States have a right to make war, they have a right to prevent it. How was it possible to grant to Congress a power for such minor purposes, other than in general terms, comprising it within the scope and policy of that which conveyed it for the greater?

The right of appropriation is nothing more than a right to apply the public money to this or that purpose. It has no incidental power, nor does it draw after it any consequences of that kind. All that Congress could do under it, in the case of internal improvements, would be to appropriate the money necessary to make them. For every act requiring legislative sanction or support, the State authority must be relied on. The condemnation of the land, if the proprietors should refuse to sell it, the establishment of turnpikes and tolls, and the protection of the work, when finished, must be done by the State. To these purposes the powers of the General Government are believed to be utterly incompetent.

To the objection that the United States have no power, in any instance, which is not complete, to all the purposes to which it may be made instrumental, and, in consequence, that they have no right to appropriate any portion of the public money to internal improvements, because they have not the right of sovereignty and jurisdiction over them, when made, a full answer has, it is presumed, been already given. It may, however, be proper to add, that, if this objection was well-founded, it would not be confined to the simple case of internal improvements, but would apply to others of high importance. Congress have a right to regulate commerce. To give effect to this power, it becomes necessary to establish custom-houses in every State along the coast, and in many parts of the interior. The vast amount of goods imported, and the duties to be performed to accommodate the merchants and secure the revenue, make it necessary that spacious buildings should be erected, especially in the great towns, for their reception. This, it is manifest, could best be performed under the direction of the General Government. Have Congress the right to seize the property of individuals, if they should refuse to sell it, in quarters best adapted to the

purpose, to have it valued, and to take it at the valuation? Have they a right to exercise jurisdiction within those buildings? Neither of these claims has ever been set up, nor could it, as is presumed, be sustained. They have invariably either rented houses, where such as were suitable could be obtained, or where they could not purchase the ground of individuals, erected the buildings, and held them under the laws of the State. Under the power to establish post offices and post roads, houses are also requisite for the reception of the mails, and the transaction of the business of the several offices. These have always been rented or purchased, and held under the laws of the State, in the same manner as if they had been taken by a citizen. The United States have a right to establish tribunals inferior to the Supreme Court, and such have been established in every State of the Union. It is believed that the houses for these inferior courts have invariably been rented. No right of jurisdiction in them has ever been claimed, nor other right than that of privilege, and that only while the court is in session. A still stronger case may be urged. Should Congress be compelled, by invasion or other cause, to remove the Government to some town within one of the States, would they have a right of jurisdiction over such town, or hold even the house in which they held their session, under other authority than the laws of such State? It is believed that they would not. If they have a right to appropriate money for any of these purposes, to be laid out under the protection of the laws of the State, surely they have an equal right to do it for the purposes of internal improvements.

It is believed that there is not a corporation in the Union which does not exercise great discretion in the application of the money raised by it, to the purposes of its institution. It would be strange if the Government of the United States, which was instituted for such important purposes, and endowed with such extensive powers, should not be allowed, at least, equal discretion and authority. The evil to be particularly avoided is the violation of State rights; shunning that, it seems to be reasonable and proper that the powers of Congress should be so construed as that the General Government, in its intercourse with other nations, and in our internal concerns, should be able to adopt all such measures lying within the fair scope and intended to facilitate the direct objects of its powers as the public welfare may require, and a sound and provident policy dictate.

The measures of Congress have been in strict accord with the view taken of the right of appropriation, both as to its extent and limitation, as will be shown by a reference to the laws, commencing at a very early period. Many roads have been opened, of which the following are the principal: The first, from Cumberland, at the head waters of the Potomac, in the State of Maryland, through Pennsylvania and Virginia, to the State of Ohio, March 29, 1806. See vol. 4th, page 13, of the late edition of the laws. The second, from the frontiers of Georgia, on the route from Athens to New Orleans, to its intersection with the 31st

degree of north latitude; April 31, 1806, page 58. The third, from the Mississippi, at a point, and by a route described, to the Ohio; same act. The fourth, from Nashville, in Tennessee, to Natchez; same act. The fifth, from the 31st degree of north latitude, on the route from Athens to New Orleans, under such regulations as might be agreed on between the Executive and the Spanish Government; March 3, 1807, page 117. The sixth, from the foot of the rapids of the river Miami, of Lake Erie, to the western line of the Connecticut Reserve; December 12, 1811, page 364. The seventh, from the Lower Sandusky to the boundary line established by the Treaty of Greenville; same act. The eighth, from a point where the United States road, leading from Vincennes to the Indian boundary line, established by the Treaty of Greenville, strikes the said line, to the North Bend, in the State of Ohio; January 8, 1812, page 367. The ninth, for repairing, and keeping in repair, the road between Columbia, on Duck river, in Tennessee, and Madisonville, in Louisiana; and also the road between Fort Hawkins, in Georgia, and Fort Stoddard; April 27, 1816, page 104, of the acts of that year. The tenth, from the Shawneetown, on the Ohio river, to the Sabine, and to Kaskaskias, in Illinois; April 27, 1816, page 112. The eleventh, from Reynoldsburg, on Tennessee river, in the State of Tennessee, through the Chickasaw nation, to intersect the Natchez road near the Chickasaw old town; March 3, 1817, page 252. The 12th: by this act authority was given to the President to appoint three commissioners, for the purpose of examining the country, and laying out a road from the termination of the Cumberland road, at Wheeling, on the Ohio, through the States of Ohio, Indiana, and Illinois, to a point to be chosen by them, on the left bank of the Mississippi, between St. Louis and the mouth of the Illinois river, and to report an accurate plan of the said road, with an estimate of the expense of making it. It is, however, declared by the act, that nothing was thereby intended to imply an obligation, on the part of the United States, to make, or defray the expense of making the said road, or any part thereof.

In the late war two other roads were made by the troops, for military purposes: one from the Upper Sandusky, in the State of Ohio, through the Black swamp, towards Detroit, and another from Plattsburg, on Lake Champlain, through the Chatauga woods, towards Sackett's Harbor, which have since been repaired and improved by the troops. Of these latter there is no notice in the laws. The extra pay to the soldiers, for repairing and improving those roads, was advanced, in the first instance, from the appropriation to the Quartermaster's department, and afterwards provided for by a specific appropriation by Congress. The necessity of keeping those roads open and in good repair, being on the frontier, to facilitate a communication between our posts, is apparent.

All of these roads, except the first, were formed merely by cutting down the trees, and throwing logs across, so as to make causeways over such parts as were otherwise impassable. The execu-

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tion was of the coarsest kind. The Cumberland road is the only regular work which has been undertaken by the General Government, or which could give rise to any question, between the two governments respecting its powers. It is a great work, over the highest mountains in our Union, connecting, from the Seat of the General Government, the eastern with the western waters, and more intimately the Atlantic with the western States, in the formation of which \$1,800,000 have been expended. The measures pursued in this case require to be particularly noticed, as fixing the opinion of the parties, and particularly of Congress, on the important question of the right. Passing through Maryland, Pennsylvania, and Virginia, it was thought necessary and proper to bring the subject before their respective legislatures, to obtain their sanction, which was granted by each State by a legislative act, approving the route and providing for the purchase and condemnation of the land. This road was founded on an article of compact between the United States and the State of Ohio, under which that State came into the Union, and by which the expense attending it was to be defrayed by the application of a certain portion of the money arising from the sale of the public lands within that State. In this instance, which is by far the strongest, in respect to the expense, extent, and nature of the work done, the United States have exercised no act of jurisdiction or sovereignty within either of the States, by taking the land from the proprietors by force; by passing acts for the protection of the road; or to raise a revenue from it by the establishment of turnpikes and tolls, or any other act founded on the principle of jurisdiction or right. Whatever they have done has, on the contrary, been founded on the opposite principle; on the voluntary and unqualified admission that the sovereignty belonged to the State, and not to the United States; and that they could perform no act which should tend to weaken the power of the State, or to assume any to themselves. All that they have done has been to appropriate the public money to the construction of this road, and to cause it to be constructed; for I presume that no distinction can be taken between the appropriation of money raised by the sale of the public lands, and of that which arises from taxes, duties, imposts, and excises; nor can I believe that the power to appropriate derives any sanction from a provision to that effect having been made by an article of compact between the United States and the people of the then Territory of Ohio. This point may, however, be placed in a clearer light by a more particular notice of the article itself.

By an act of April 30, 1802, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes," after describing the limits of the proposed new State, and authorizing the people thereof to elect a convention to form a constitution, the three following propositions were made

to the convention, to be obligatory on the United States, if accepted by it: First, that section number sixteen of every township, or, where such section had been sold, other lands equivalent thereto, should be granted to the inhabitants of such township, for the use of free schools. Second, that the six miles' reservation, including the salt springs commonly called the Sciota salt springs; the salt springs near the Muskingum river, and in the military tract, with the sections which include the same, should be granted to the said State, for the use of the people thereof, under such regulations as the Legislature of the State should prescribe: provided, that it should never sell or lease the same for more than ten years. Third, that one-twentieth part of the proceeds of the public lands lying within the said State, which might be sold by Congress, from and after the 30th June ensuing, should be applied to the laying out and making public roads, from the navigable waters emptying into the Atlantic, to the Ohio, and through the State of Ohio; such roads to be laid out under the authority of Congress, with the consent of the several States through which they should pass.

These three propositions were made on the condition that the convention of the State should provide, by an ordinance, irrevocable without the consent of the United States, that every tract of land sold by Congress, after the 30th of June ensuing, should remain, for the term of five years, after sale, exempt from every species of tax whatsoever.

It is impossible to read the ordinance of the 23d of April, 1784, or the provisions of the act of April 30th, 1802, which are founded on it, without being profoundly impressed with the enlightened and magnanimous policy which dictated them. Anticipating that the new States would be settled by the inhabitants of the original States and their offspring, no narrow or contracted jealousy was entertained of their admission into the Union, in equal participation in the national sovereignty with the original States. It was foreseen, at the early period at which that ordinance passed, that the expansion of our Union to the Lakes and to the Mississippi and all its waters, would not only make us a greater Power, but cement the Union itself. These three propositions were well calculated to promote these great results. A grant of land to each township, for free schools, and of the salt springs to the State, which were within its limits, for the use of its citizens, with five per cent. of the money to be raised from the sale of lands within the State, for the construction of roads between the original States and the new State, and of other roads within the State, indicated a spirit not to be mistaken, nor could it fail to produce a corresponding effect in the bosoms of those to whom it was addressed. For these considerations the sole return required of the convention was, that the new State should not tax the public lands which might be sold by the United States within it, for the term of five years after they should be sold. As the value of these lands would be enhanced by this exemption from taxes for that term, and from which the new

State would derive its proportionable benefit, and as it would also promote the rapid sale of those lands, and with it the augmentation of its own population, it cannot be doubted, had this exemption been suggested, unaccompanied by any propositions of particular advantage, that the convention would, in consideration of the relation which had before existed between the parties, and was about to be so much improved, most willingly have acceded to it, and without regarding it as an onerous condition.

Since, then, it appears that the whole of the money to be employed in making this road, was to be raised from the sale of the public lands, and which would still belong to the United States, although no mention had been made of them in the compact, it follows that the application of the money to that purpose stands upon the same ground as if such compact had not been made, and, in consequence, that the example in favor of the right of appropriation is in no manner affected by it.

The same rule of construction of the right of appropriation has been observed, and the same liberal policy pursued, towards the other new States, with certain modifications adapted to the situation of each, which were adopted with the State of Ohio. As, however, the reasoning which is applicable to the compact with Ohio, in relation to the right of appropriation, in which light only I have adverted to it, is equally applicable to the several compacts with the other new States, I deem it unnecessary to take a particular notice of them.

It is proper to observe, that the money which was employed in the construction of all the other roads, was taken directly from the Treasury. This fact affords an additional proof that, in the contemplation of Congress, no difference existed in the application of money to those roads, between that which was raised by the sale of lands, and that which was derived from taxes, duties, imposts, and excises.

So far, I have confined my remarks to the acts of Congress respecting the right of appropriation to such measures only as operate internally and affect the territory of the individual States. In adverting to those which operate externally and relate to foreign Powers, I find only two which appear to merit particular attention. These were gratuitous grants of money for the relief of foreigners in distress; the first in 1794, to the inhabitants of St. Domingo, who sought an asylum on our coast from the convulsions and calamities of the island; the second in 1812, to the people of Caraccas, reduced to misery by an earthquake. The considerations which were applicable to these grants have already been noticed and need not be repeated.

In this examination of the right of appropriation, I thought it proper to present to view also the practice of the Government under it, and to explore the ground on which each example rested, that the precise nature and extent of the construction thereby given of the right might be clearly understood. The right to raise money would

have given, as is presumed, the right to use it, although nothing had been said to that effect in the Constitution. And where the right to raise it is granted, without special limitation, we must look for such limitation to other causes. Our attention is first drawn to the right to appropriate, and not finding it there, we must then look to the general powers of the Government, as designated by the specific grants, and to the purposes contemplated by them, allowing to this, the right to raise money, the first and most important of the enumerated powers, a scope which will be competent to those purposes. The practice of the Government, as illustrated by numerous and strong examples directly applicable, ought surely to have great weight in fixing the construction of each grant. It ought, I presume, to settle it, especially where it is acquiesced in by the nation, and produces a manifest and positive good. A practical construction, thus supported, shows that it has reason on its side, and is called for by the interests of the Union. Hence, too, the presumption that it will be persevered in. It will, surely, be better to admit, that the construction given by these examples has been just and proper, than to deny that construction, and still to practice on it—to say one thing, and to do another.

Wherein consists the danger of giving a liberal construction to the right of Congress to raise and appropriate the public money? It has been shown that its obvious effect is to secure the rights of the States from encroachment and greater harmony in the political movement between the two Governments, while it enlarges, to a certain extent, in the most harmless way, the useful agency of the General Government for all the purposes of its institution. Is not the responsibility of the representative to his constituent, in every branch of the General Government, equally strong, and as sensibly felt, as in the State governments, and is not the security against abuse as effectual in the one as in the other Government? The history of the General Government, in all its measures, fully demonstrates that Congress will never venture to impose unnecessary burdens on the people, or any that can be avoided. Duties and imposts have always been light, not greater perhaps than would have been imposed for the encouragement of our manufactures, had there been no occasion for the revenue arising from them; and taxes and excises have never been laid, except in cases of necessity, and repealed as soon as the necessity ceased. Under this mild process, and the sale of some hundreds of millions of acres of good land, the Government will be possessed of money, which may be applied with great advantage to national purposes. Within the States only will it be applied, and, of course, for their benefit, it not being presumable that such appeals as were made to the benevolence of the country, in the instances of the inhabitants of St. Domingo and Caraccas, will often occur. How, then, shall this revenue be applied? Should it be idle in the Treasury? That our resources will be equal to such useful purposes, I have no doubt, especially if, by completing our fortifications, and raising and main-

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taining our Navy at the point provided for, immediately after the war, we sustain our present altitude, and preserve, by means thereof, for any length of time, the peace of the Union.

When we hear charges raised against other Governments of breaches of their constitutions, or rather of their charters, we always anticipate the most serious consequences: communities deprived of privileges which they have long enjoyed, or individuals oppressed and punished, in violation of the ordinary forms and guards of trial to which they were accustomed and entitled. How different is the situation of the United States! Nor can any thing mark more strongly the great characteristics of that difference, than the grounds on which like charges are raised against this Government. It is not alleged that any portion of the community, or any individual, has been oppressed, or that money has been raised under a doubtful title. The principal charges are, that a work of great utility to the Union, and affecting, immediately, and with like advantage, many of the States, has been constructed; that pensions to the surviving patriots of our Revolution, to patriots who fought the battles and promoted the independence of their country, have been granted, by money, too, raised not only without oppression, but almost without being felt, and under an acknowledged Constitutional power.

From this view of the right to appropriate, and of the practice under it, I think that I am authorized to conclude, that the right to make internal improvements has not been granted by the power "to pay the debts, and provide for the common defence and general welfare," included in the first of the enumerated powers; that that grant conveys nothing more than a right to appropriate the public money, and stands on the same ground with the right to lay and collect taxes, duties, imposts, and excises, conveyed by the first branch of that power; that the Government itself being limited, both branches of the power to raise and appropriate the public money are also limited; the extent of the Government, as designated by the specific grants, marking the extent of the power in both branches, extending, however, to every object embraced by the fair scope of those grants, and not confined to a strict construction of their respective powers, it being safer to aid the purposes of those grants by the appropriation of money, than to extend, by a forced construction, the grant itself. That, although the right to appropriate the public money to such improvements, affords a resource, indispensably necessary to such a scheme, it is, nevertheless, deficient as a power in the great characteristics on which its execution depends:

The substance of what has been urged on this subject may be expressed in a few words. My idea is, that Congress have an unlimited power to raise money, and that, in its appropriation, they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defence, and of general, not local, national, not State, benefit.

I will now proceed to the fifth source from

which the power is said to be derived, viz: The power to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof. This is the seventeenth and last of the enumerated powers granted to Congress.

I have always considered this power as having been granted on a principle of greater caution to secure the complete execution of all the powers which had been vested in the General Government. It contains no distinct and specific power, as every other grant does, such as to lay and collect taxes, to declare war, to regulate commerce, and the like. Looking to the whole scheme of the General Government, it gives to Congress authority to make all laws which should be deemed necessary and proper for carrying all its powers into effect. My impression has been, invariably, that this power would have existed, substantially, if this grant had not been made; for why is any power granted, unless it be to be executed when required, and how can it be executed under our Government, unless it be by laws necessary and proper for the purpose, that is, well adapted to the end? It is a principle universally admitted, that a grant of a power conveys, as a necessary consequence or incident to it, the means of carrying it into effect, by a fair construction of its import. In the formation, however, of the Constitution which was to act directly upon the people, and be paramount, to the extent of its powers, to the constitutions of the States, it was wise in its framers to leave nothing to implication which might be reduced to certainty. It is known that all power which rests solely on that ground has been systematically and zealously opposed under all Governments with which we have any acquaintance; and it was reasonable to presume, that, under our system, where there was a division of the sovereignty between the two independent Governments, the measures of the General Government would excite equal jealousy, and produce an opposition not less systematic, though, perhaps, less violent. Hence the policy, by the framers of our Government, of securing, by a fundamental declaration in the Constitution, a principle which, in all other Governments, had been left to implication only. The terms, necessary and proper, secure to the powers of all the grants, to which the authority given in this is applicable, a fair and sound construction, which is equally binding, as a rule, on both Governments, and on all their departments.

In examining the right of the General Government to adopt and execute, under this grant, a system of internal improvement, the sole question to be decided is, whether the power has been granted under any of the other grants. If it has, this power is applicable to it, to the extent stated. If it has not, it does not exist at all, for it has not been hereby granted. I have already examined all the other grants, (one only excepted, which will next claim attention,) and shown, as I presume, on the most liberal construction of their powers, that the right has not been granted by any of

them. Hence it follows, that, in regard to them, it has not been granted by this.

I come now to the last source from which this power is said to be derived, viz: the power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States, which is contained in the second clause of the third section of the fourth article of the Constitution.

To form a just opinion of the nature and extent of this power, it will be necessary to bring into view the provisions contained the first clause of the section of the article referred to, which makes an essential part of the policy in question. By this it is declared, that new States shall be admitted into the Union, but that no new States shall be formed or erected, within the jurisdiction of any other State; nor any States be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the United States.

If we recur to the condition of our country, at the commencement of the Revolution, we shall see the origin and cause of these provisions. By the charters of the several colonies, limits by latitude and other descriptions, were assigned to each. In commencing the Revolution, the colonies, as has already been observed, claimed by those limits, although their population extended, in many instances, to a small portion of the territory lying within them. It was contended, by some of the States, after the declaration of independence, that the vacant lands, lying within any of the States, should become the property of the Union, as by a common exertion, they would be acquired. This claim was resisted by the others, on the principle that all the States entered into the contest in the full extent of their chartered rights, and that they ought to have the full benefit of those rights in the event of success. Happily, this controversy was settled, as all interfering claims and pretensions, between the members of our Union, and between the General Government, and any of these members, have been, in the most amicable manner, and to the satisfaction of all parties. On the recommendation of Congress, the individual States, having such territory within their chartered limits, ceded large portions thereof to the United States, on condition that it should be laid off into districts of proper dimensions, the lands to be sold for the benefit of the United States; and that the districts be admitted into the Union, when they should obtain such a population as it might be thought proper and reasonable to prescribe. This is the territory, and this the property, referred to in the second clause of the fourth article of the Constitution.

All the States which had made cessions of vacant territory, except Georgia, had made them before the adoption of the Constitution, and that State had made a proposition to Congress to that effect, which was under consideration at the time the Constitution was adopted. The cession was completed after the adoption of the Constitution. It was made on the same principle, and on similar con-

ditions with those which had been already made by the other States. As differences might arise respecting the right or the policy in Congress to admit new States into the Union, under the new government, or to make regulations for the government of the territory ceded in the intermediate state, or for the improvement and sale of the public lands, or to accept other cessions, it was thought proper to make special provisions for these objects, which was accordingly done by the above recited clause in the Constitution.

Thus the power of Congress over the ceded territory was not only limited to these special objects, but was also temporary. As soon as the Territory became a State, the jurisdiction over it, as it had before existed, ceased. It extended afterwards only to the unsold lands, and as soon as the whole were sold, it ceased in that sense, also, altogether. From that moment, the United States have no jurisdiction or power in the new States, other than in the old, nor can it be obtained except by an amendment of the Constitution.

Since then it is manifest that the power granted to Congress to dispose of, and make all needful regulations respecting, the territory and other property of the United States, relates solely to the territory and property which had been ceded by individual States, and which, after such cession, lay without their respective limits, and for which special provision was deemed necessary, the main power of the Constitution operating internally, not being applicable or adequate thereto, it follows that this power gives no authority, and has even no bearing on the question of internal improvement. The authority to admit new States and to dispose of the property and regulate the territory, is not among the enumerated powers granted to Congress, because the duties to be performed under it are not among the ordinary duties of that body, like the imposition of taxes, the regulation of commerce, and the like. They are objects in their nature special, and for which special provision was more suitable and proper.

Having now examined all the powers of Congress, under which the right to adopt and execute a system of internal improvement is claimed, and the reasons in support of it, in each instance, I think that it may fairly be concluded that such a right has not been granted. It appears, and is admitted, that much may be done in aid of such a system, by the right which is derived from several of the existing grants, and more especially from that to appropriate the public money. But still it is manifest, that, as a system for the United States, it can never be carried into effect, under that grant, nor under all of them united, the great and essential power being deficient; consisting of a right to take up the subject on principle; to cause our Union to be examined by men of science, with a view to such improvements; to authorize commissioners to lay off the roads and canals in all proper directions; to take the land at a valuation if necessary, and to construct the works; to pass laws, with suitable penalties for their protection; and to raise a revenue from them; to keep them in repair, and make further

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improvement, by the establishment of turnpikes, and tolls, with gates to be placed at the proper distances.

It need scarcely be remarked that this power will operate, like many others now existing, without affecting the sovereignty of the States, except in the particular offices to be performed. The jurisdiction of the several States may still exist over the roads and canals within their respective limits, extending alike to persons and property, as if the right to make and protect such improvements had not been vested in Congress. The right being made commensurate simply with the purposes indispensable to the system, may be strictly confined to them. The right of Congress to protect the works, by laws, imposing penalties, would operate on the same principles as the right to protect the mail. The act being punishable only, a jurisdiction over the place would be altogether unnecessary and even absurd.

In the preceding inquiry, little has been said of the advantages which would attend the exercise of such a power by the General Government. I have made the inquiry under a deep conviction that they are almost incalculable, and that there was a general concurrence of opinion among our fellow-citizens to that effect. Still it may not be improper for me to state the grounds upon which my own impression is founded. If it sheds no additional light on this interesting part of the subject, it will, at least, show that I have had more than one powerful motive for making the inquiry. A general idea is all that I shall attempt.

The advantages of such a system must depend upon the interests to be affected by it, and the extent to which they may be affected, and those must depend on the capacity of our country for improvement, and the means at its command applicable to that object.

I think that I may venture to affirm that there is no part of our globe comprehending so many degrees of latitude on the main ocean, and so many degrees of longitude into the interior, that admits of such great improvement, and at so little expense. The Atlantic, on the one side, and the lakes, forming almost inland seas, on the other, separated by high mountains which rise in the valley of the St. Lawrence, and determine in that of the Mississippi, traversing from North to South, almost the whole interior; with innumerable rivers on every side of those mountains, some of vast extent, many of which take their sources near to each other, give the great outline; the details are to be seen on the valuable maps of our country.

It appears, by the light already before the public, that it is practicable and easy to connect, by canals, the whole coast, from its southern to its northern extremity, in one continued inland navigation; and to connect, in like manner, in many parts, the western lakes and rivers with each other. It is equally practicable and easy to facilitate the intercourse between the Atlantic and the Western country, by improving the navigation of many of the rivers, which have their sources near to each other in the mountains, on each side, and by good roads across the mountains, between the highest

navigable points of those rivers. In addition to the example of the Cumberland road, already noticed, another of this kind is now in train, from the head waters of the river James to those of the Kanawa; and in like manner may the Savannah be connected with the Tennessee. In some instances it is understood that the eastern and western waters may be connected together directly, by canals. One great work of this kind is now in its progress and far advanced in the State of New York, and there is good reason to believe that two others may be formed, one at each extremity of the high mountains above mentioned, connecting in the one instance the waters of the St. Lawrence with Lake Champlain, and in the other, some of the most important of the western rivers with those emptying into the Gulf of Mexico; the advantage of which will be seen at the first glance, by an enlightened observer.

Great improvements may also be made by good roads, in proper directions, through the interior of the country. As these roads would be laid out on principle, on a full view of the country, its mountains, rivers, &c., it would be useless, if I had the knowledge, to go into detail respecting them. Much has been done by some of the States, but yet much remains to be done with a view to the Union.

Under the colonial governments, improvements of this kind were not thought of. There was, it is believed, not one canal, and little communication from colony to colony. It was their policy to encourage the intercourse between each colony and the parent country only. The roads which were attended to, were those which led from the interior of each colony to its principal towns on the navigable waters. By those routes the produce of the country was carried to the coast, and shipped thence to the mercantile house in London, Liverpool, Glasgow, or other towns to which the trade was carried on. It is believed that there was but one connected route from north to south at the commencement of the Revolution, and that a very imperfect one. The existence and principle of our Union point out the necessity of a very different policy.

The advantages which would be derived from such improvements are incalculable. The facility which would thereby be afforded to the transportation of the whole of the rich productions of our country to market, would alone more than amply compensate for all the labor and expense attending them. Great however as is that advantage, it is one only of many, and by no means the most important. Every power of the General Government and of the State governments, connected with the strength and resources of the country, would be made more efficient for the purposes intended by them. In war, they would facilitate the transportation of men, ordnance, and provisions, and munitions of war, of every kind, to every part of our extensive coast and interior, on which an attack might be made or threatened. Those who have any knowledge of the occurrences of the late war, must know the good effect which would result, in the event of another war,

from the command of an interior navigation alone, along the coast, for all the purposes of war, as well as of commerce, between the different parts of our Union. The impediments to all military operations which proceeded from the want of such a navigation, and the reliance which was placed, notwithstanding those impediments, on such a commerce, cannot be forgotten. In every other line their good effect would be most sensibly felt. Intelligence by means of the Post Office Department would be more easily, extensively, and rapidly diffused. Parts the most remote from each other would be brought more closely together. Distant lands would be made more valuable, and the industry of our fellow-citizens on every portion of our soil be better rewarded.

It is natural, in so great a variety of climate, that there should be a corresponding difference in the produce of the soil—that one part should raise what the other might want. It is equally natural that the pursuits of industry should vary in like manner; that labor should be cheaper, and manufactures succeed better, in one part than in another; that, were the climate the most severe and the soil less productive, navigation, the fisheries, and commerce, should be most relied on. Hence the motive for an exchange, for mutual accommodation and active intercourse between them. Each part would thus find for the surplus of its labor, in whatever article it consisted, an extensive market at home, which would be the most profitable because free from duty.

There is another view in which these improvements are of still more vital importance. The effect which they would have on the bond of Union itself affords an inducement for them more powerful than any which have been urged, or than all of them united. The only danger to which our system is exposed arises from its expansion over a vast territory. Our Union is not held together by standing armies, or by any ties, other than the positive interests and powerful attractions of its parts towards each other. Ambitious men may hereafter grow up among us, who may promise to themselves advancement from a change, and by practising upon the sectional interests, feelings, and prejudices, endeavor under various pretexts to promote it. The history of the world is replete with examples of this kind—of military commanders and demagogues becoming usurpers and tyrants, and of their fellow-citizens becoming their instruments and slaves. I have little fear of this danger, knowing well how strong the bond which holds us together is, and who the people are who are thus held together. But still it is proper to look at and to provide against it, and it is not within the compass of human wisdom to make a more effectual provision than would be made by the proposed improvements. With their aid, and the intercourse which would grow out of them, the parts would soon become so compacted and bound together that nothing could break it.

The expansion of our Union over a vast territory cannot operate unfavorably to the States individually. On the contrary, it is believed that the

greater the expansion, within practicable limits, and it is not easy to say what are not so, the greater the advantage which the States individually will derive from it. With governments separate, vigorous, and efficient for all local purposes, their distance from each other can have no injurious effect upon their respective interests. It has already been shown, that, in some important circumstances, especially with the aid of these improvements, they must derive great advantage from that cause alone, that is, from their distance from each other. In every other way, the expansion of our system must operate favorably for every State, in proportion as it operates favorably for the Union. It is in that sense only that it can become a question with the States, or rather with the people who compose them. As States, they can be affected by it only by their relation to each other through the General Government, and by its effect on the operations of that Government. Manifest it is, that to any extent to which the General Government can sustain and execute its functions with complete effect, will the States, that is, the people who compose them, be benefited. It is only when the expansion shall be carried beyond the faculties of the General Government, so as to enfeeble its operations, to the injury of the whole, that any of the parts can be injured. The tendency, in that stage, will be to dismemberment, and not to consolidation. This danger should, therefore, be looked at with profound attention, as one of a very serious character. I will remark here, that, as the operations of the National Government are of a general nature, the States having complete power for internal and local purposes, the expansion may be carried to very great extent, and with perfect safety. It must be obvious to all, that the further the expansion is carried, provided it be not beyond the just limit, the greater will be the freedom of action to both Governments, and the more perfect their security; and, in all other respects, the better the effect will be to the whole American people. Extent of territory, whether it be great or small, gives to a nation many of its characteristics. It marks the extent of its resources, of its population, of its physical force. It marks, in short, the difference between a great and a small power.

To what extent it may be proper to expand our system of Government, is a question which does not press for a decision at this time. At the end of the Revolutionary war, in 1783, we had, as we contended and believed, a right to the free navigation of the Mississippi; but it was not until after the expiration of twelve years, in 1795, that that right was acknowledged and enjoyed. Further difficulties occurred, in the bustling of a contentious world, when, at the expiration of eight years more, the United States, sustaining the strength and energy of their character, acquired the province of Louisiana, with the free navigation of the river, from its source to the ocean, and a liberal boundary on the western side. To this, Florida has since been added, so that we now possess all the territory in which the original States had any interest, or in which the existing

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States can be said, either in a national or local point of view, to be in any way interested. A range of States, on the western side of the Mississippi, which already is provided for, puts us essentially at ease. Whether it will be wise to go further, will turn on other considerations than those which have dictated the course heretofore pursued. At whatever point we may stop, whether it be at a single range of States beyond the Mississippi, or by taking a greater scope, the advantage of such improvements is deemed of the highest importance. It is so, on the present scale. The further we go, the greater will be the necessity for them.

It cannot be doubted, that improvements for great national purposes would be better made by the National Government, than by the governments of the several States. Our experience prior to the adoption of the Constitution, demonstrated, that, in the exercise by the individual States of most of the powers granted to the United States, a contracted rivalry of interest, and misapplied jealousy of each other, had an important influence on all their measures, to the great injury of the whole. This was particularly exemplified by the regulations which they severally made, of their commerce with foreign nations, and with each other. It was this utter incapacity in the State governments, proceeding from these and other causes, to act as a nation, and to perform all the duties which the nation owed to itself, under any system which left the General Government dependent on the States, which produced the transfer of these powers to the United States, by the establishment of the present Constitution. The reasoning which was applicable to the grant of any of the powers now vested in Congress, is likewise so, at least to a certain extent, to that in question. It is natural that the States, individually, in making improvements, should look to their particular and local interests. The members composing their respective Legislatures represent the people of each State, only, and might not feel themselves at liberty to look to objects, in these respects, beyond that limit. If the resources of the Union were to be brought into operation under the direction of the State Assemblies, or in concert with them, it may be apprehended that every measure would become the object of negotiation, of bargain and barter, much to the disadvantage of the system, as well as discredit to both Governments. But Congress would look to the whole, and make improvements to promote the welfare of the whole. It is the peculiar felicity of the proposed amendment, that, while it will enable the United States to accomplish every national object, the improvements made with that view will eminently promote the welfare of the individual States, who may also add such others as their own particular interests may require.

The situation of the Cumberland road requires the particular and early attention of Congress. Being formed over very lofty mountains, and in many instances over deep and wide streams, across which valuable bridges have been erected which are sustained by stone walls, as are many other parts of the road, all these works are subject to

decay, have decayed, and will decay rapidly, unless timely and effectual measures are adopted to prevent it.

The declivities from the mountains, and all the heights, must suffer from the frequent and heavy falls of water, and its descent to the valleys, as also from the deep congelations during our severe Winters. Other injuries have also been experienced on this road, such as the displacing the capping of the walls, and other works, committed by worthless people, either from a desire to render the road impassable, or to have the transportation in another direction, or from a spirit of wantonness to create employment for idlers. These considerations show, that an active and strict police ought to be established over the whole road, with power to make repairs when necessary; to establish turnpikes and tolls, as the means of raising money to make them; and to prosecute and punish those who commit waste and other injuries.

Should the United States be willing to abandon this road to the States through which it passes, would they take charge of it, each of that portion within its limits, and keep it in repair? It is not to be presumed that they would, since the advantages attending it are exclusively national, by connecting, as it does, the Atlantic with the Western States, and in a line with the seat of the National Government. The most expensive parts of this road lie within Pennsylvania and Virginia, very near the confines of each State, and in a route not essentially connected with the commerce of either.

If it is thought proper to vest this power in the United States, the only mode in which it can be done, is, by an amendment of the Constitution. The States, individually, cannot transfer the power to the United States, nor can the United States receive it. The Constitution forms an equal and the sole relation between the General Government and the several States; and it recognises no change in it, which shall not, in like manner, apply to all. If it is once admitted, that the General Government may form compacts with individual States, not common to the others, and which the others might even disapprove, into what pernicious consequences might it not lead? Such compacts are utterly repugnant to the principles of the Constitution, and of the most dangerous tendency. The States, through which this road passes, have given their sanction only to the route, and to the acquisition of the soil by the United States—a right very different from that of jurisdiction, which cannot be granted without an amendment to the Constitution, and which need not be granted for the purposes of this system, except in the limited manner heretofore stated. On full consideration, therefore, of the whole subject, I am of opinion that such an amendment ought to be recommended to the several States for their adoption.

I have now essentially executed that part of the task, which I imposed on myself, of examining the right of Congress to adopt and execute a system of internal improvement, and I presume have shown that it does not exist. It is, I think, equally

manifest, that such a power vested in Congress, and wisely executed, would have the happiest effect on all the great interests of our Union. It is, however, my opinion, that the power should be confined to great national works only, since, if it were admitted, it would be liable to abuse, and might be productive of evil. For all minor improvements, the resources of the States individually, would be fully adequate, and by the States such improvements might be made with greater advantage than by the Union; as they would understand better such as their more immediate and local interests required.

In the view above presented, I have thought it proper to trace the origin of our institutions, and particularly of the State and National Governments, for, although they have a common origin, in the people, yet, as the point at issue turned on what were the powers granted to the one government, and what were those which remained to the other, I was persuaded that an analysis which should mark distinctly the source of power in both Governments, with its progress in each, would afford the best means for obtaining a sound result. In our political career, there are, obviously, three great epochs. The colonial state forms the first; the revolutionary movement, from its commencement to the adoption of the Articles of Confederation, the second; and the intervening space, from that event to the present day, the third. The first may be considered the infant state. It was the school of morality, of political science, and just principles. The equality of rights enjoyed by the people of every colony, under their original charters, forms the basis of every existing institution, and it was owing to the creation by those charters of distinct communities that the power, when wrested from the Crown, passed directly and exclusively to the people of each colony. The Revolutionary struggle gave activity to those principles, and its success secured to them a permanent existence in the governments of our Union, State and National. The third epoch comprises the administration under the Articles of Confederation, with the adoption of the Constitution, and administration under it. On the first and last of these epochs, it is not necessary to enlarge for any purpose connected with the object of this inquiry. To the second, in which we were transferred by a heroic exertion, from the first to the third stage, and whose events give the true character to every institution, some further attention is due. In tracing in greater detail the prominent acts of a movement to which we owe so much, I shall perform an office, which, if not useful, will be gratifying to my own feelings, and I hope not unacceptable to my readers.

Of the revolutionary movement itself, sentiments too respectful, too exalted, cannot be entertained. It is impossible for any citizen, having a just idea of the dangers which we had to encounter, to read the record of our early proceedings, and to see the firmness with which they were met, and the wisdom and patriotism which were displayed in every stage, without being deeply affected by it. An

attack on Massachusetts was considered an attack on every colony, and the people of each moved in her defence, as in their own cause. The meeting of the General Congress in Philadelphia, on the 6th of September, 1774; appears to have been the result of a spontaneous impulse in every quarter at the same time. The first public act proposing it, according to the journals of the first Congress, was passed by the House of Representatives of Connecticut, on the third of June, of that year; but it is presumed that the first suggestion came from Massachusetts, the colony most oppressed, and in whose favor the general sympathy was much excited. The exposition which that Congress made of grievances, in the petition to the King, in the address to the people of Great Britain, and in that to the people of the several colonies, evinced a knowledge so profound of the English constitution and of the general principles of free government and of liberty; of our rights founded on that constitution, and on the charters of the several colonies, and of the numerous and egregious violations which had been committed of them, as must have convinced all impartial minds, that the talent on this side of the Atlantic was at least equal to that on the other. The spirit in which those papers were drawn, which was known to be in strict accord with the public sentiment, proved that, although the whole people cherished a connexion with the parent country, and were desirous of preserving it on just principles, they nevertheless stood embodied at the parting line, ready to separate for ever, if a redress of grievances, the alternative offered, was not promptly rendered. That alternative was rejected, and, in consequence, war and dismemberment followed.

The powers granted to the delegates of each colony who composed the first Congress looked primarily to the support of rights, and to a redress of grievances, and in consequence to the restoration of harmony, which was ardently desired. They justified, however, any extremity in case of necessity. They were ample for such purposes, and were executed in every circumstance with the utmost fidelity. It was not until after the meeting of the second Congress, which took place on the 10th May, 1775, when full proof was laid before it of the commencement of hostilities in the preceding month, by a deliberate attack of the British troops, on the militia and inhabitants of Lexington and Concord, in Massachusetts, that war might be said to be decided on, and measures were taken to support it. The progress even then was slow and reluctant, as will be seen by their second petition to the King, and their second address to the people of Great Britain, which were prepared and forwarded after that event. The arrival, however, of large bodies of troops, and the pressure of war in every direction, soon dispelled all hope of accommodation.

On the 15th of June, 1775, a commander-in-chief of the forces raised, and to be raised, for the defence of American liberty, was appointed by the unanimous vote of Congress, and his conduct in the discharge of the duties of that high trust, which he held through the whole of the war, has given

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an example to the world for talents as a military commander; for integrity, fortitude, and firmness, under the severest trials; for respect to the civil authority, and devotion to the rights and liberties of his country, of which neither Rome nor Greece have exhibited the equal. I saw him in my earliest youth, in the retreat through Jersey, at the head of a small band, or rather in its rear, for he was always next the enemy, and his countenance and manner made an impression on me, which time can never efface. A lieutenant then in the third Virginia regiment, I happened to be on the rear guard at Newark, and I counted the force under his immediate command by platoons as it passed me, which amounted to less than three thousand men. A deportment so firm, so dignified, so exalted, but yet so modest, and composed, I have never seen in any other person.

On the 6th July, 1775, Congress published a declaration of the causes which compelled them to take up arms, and immediately afterwards took measures for augmenting the army and raising a navy; for organizing the militia and providing cannon, and small arms, and military stores of every kind; for raising a revenue, and pushing the war offensively, with all the means in their power. Nothing escaped the attention of that enlightened body. The people of Canada were invited to join the Union, and a force sent into the province to favor the revolutionary party, which, however, was not capable of affording any essential aid. The people of Ireland were addressed in terms manifesting due respect for the sufferings, the talents, and patriotism, of that portion of the British empire; and a suitable acknowledgment was made to the Assembly of Jamaica, for the approbation it had expressed of our cause, and the part it had taken in support of it with the British Government.

On the 2d of June, 1775, the Convention of Massachusetts, by a letter signed by their President, of May the 10th, stated to Congress "that they labored under difficulties for the want of a regular form of government, and requested to be favored with 'explicit advice respecting the taking up and exercising the powers of civil government,' and declaring their readiness 'to submit to such a general plan as the Congress might direct for the colonies, or that they would make it their great study to establish such a form of government there, as should not only promote their own advantage, but the union and interest of all America.'" To this application an answer was given on the 9th by which it was recommended to the Convention, "to write letters to the inhabitants of the several places entitled to representation in assembly, requesting them to choose such representatives, and that the assembly, when chosen, should elect councillors, and that said assembly or council should exercise the powers of government, until a governor of His Majesty's appointment will consent to govern the colony according to its charter."

On the 18th October of the same year, the delegates from New Hampshire laid before Congress an instruction from their convention "to use their 'utmost endeavors to obtain the advice and direc-

'tion of Congress, with respect to a method for 'administering justice, and regulating their civil 'police.'" To this a reply was given on the 3d November, by which it was recommended to the convention "to call a full and free representation 'of the people, and that the representatives, if 'they thought it necessary, should establish such 'a form of government as, in their judgment, 'would best promote the happiness of the people, 'and most effectually secure peace and good order 'in the province, during the continuance of the 'present dispute between Great Britain and the 'colonies."

On the 4th November it was resolved by Congress "that if the convention of South Carolina 'shall find it necessary to establish a form of gov- 'ernment in that colony, it be recommended to 'that convention to call a full and free represent- 'ation of the people, and the said representatives, 'if they think it necessary, shall establish such a 'form of government as, in their judgment, will 'best promote the happiness of the people, and 'most effectually secure peace and good order in 'the colony, during the continuance of the pres- 'ent dispute between Great Britain and the colo- 'nies."

On the 4th December following, a resolution passed recommending the same measure, and precisely in the same words, to the convention of Virginia.

On the 10th May, 1776, "it was recommended 'to the respective assemblies and conventions of 'the united colonies, where no government suffi- 'cient to the exigencies of their affairs had been 'established, to adopt such government as should, 'in the opinion of the representatives of the peo- 'ple best conduce to the happiness and safety of 'their constituents in particular, and America in 'general."

On the 7th June, resolutions respecting inde- pendence were moved and seconded, which were referred to a Committee of the Whole on the 8th and 10th, on which latter day it was resolved to postpone a decision on the first resolution, or main question, until the 1st July, but that no time might be lost in case the Congress agree thereto, that a committee be appointed to prepare a declaration to the effect of that resolution.

On the 11th June, 1776, Congress appointed a committee to prepare and digest a plan of con- federation for the colonies. On the 12th July the committee reported a draught of articles, which were severally afterwards debated and amended, until the 15th November, 1777, when they were adopted. These articles were then proposed to the legislatures of the several States, with a request that, if approved by them, they would authorize their delegates to ratify the same in Congress, and which, being done, to become con- clusive. It was not until the 21st of March, 1781, as already observed, that they were ratified by the last State, and carried into effect.

On the 4th July, 1776, independence was de- clared, by an act which arrested the attention of the civilized world, and will bear the test of time. For force and condensation of matter, strength of

reason, sublimity of sentiment and expression, it is believed that no document of equal merit exists. It looked to every thing, and with a reach, perspicuity, and energy of mind, which seemed to be master of every thing.

Thus it appears, in addition to the very important charge of managing the war, that Congress had under consideration at the same time, the Declaration of Independence, the adoption of a confederation for the States, and the propriety of instituting State governments, with the nature of those governments, respecting which it had been consulted by the conventions of several of the colonies. So great a trust was never reposed before in a body thus constituted, and I am authorized to add, looking to the great result, that never were duties more ably or faithfully performed.

The distinguishing characteristic of this movement is, that, although the connexion which had existed between the people of the several colonies, before their dismemberment from the parent country, was not only not dissolved, but increased by that event, even before the adoption of the Articles of Confederation, yet the preservation and augmentation of that tie were the result of a new creation, and proceeded altogether from the people of each colony, into whose hands the whole power passed, exclusively, when wrested from the Crown. To the same cause the greater change which has since occurred, by the adoption of the Constitution, is to be traced.

The establishment of our institutions forms the most important epoch that history hath recorded. They extend unexampled felicity to the whole body of our fellow-citizens, and are the admiration of other nations. To preserve and hand them down in their utmost purity to the remotest ages will require the existence and practice of virtues and talents equal to those which were displayed in acquiring them. It is ardently hoped and confidently believed that these will not be wanted.

MONDAY, May 6.

Mr. NEWTON, from the Committee on Commerce, to which was referred the bill from the Senate, entitled "An act for the relief of Alexander Humphrey and Sylvester Humphrey," reported it with a recommendation that the House do not pass the same; and the bill was laid on the table.

Mr. WOOD submitted the following resolution:

Resolved, That the Architect of the Public Buildings be authorized, in conjunction with the Clerk of this House, to make such necessary repairs for the improvement of the Hall of the House of Representatives as they may deem necessary to facilitate the means of speaking and hearing.

In support of this motion Mr. W. stated that it was believed by the Architect, that by filling up the hollow space under the raised floor of the Hall, and a different arrangement of the drapery, the hearing would be greatly improved. The cost of these alterations would not be great, but they could not be made without authority of the House.

Mr. KEYES remarked that he did not perceive

the necessity of these alterations. The Hall was well, enough, he said. If members would but be still, and not move about so much, they could hear one another well enough.

The question was then put on agreeing to the resolution, and decided in the negative.

On motion of Mr. HEMPHILL, the Committee on Roads and Canals were discharged from the further consideration of such subjects referred to them which have not been already acted upon.

Mr. FLOYD submitted the following resolution:

Resolved, That the President of the United States be requested to cause a report to be made to this House, at an early period of the next session of Congress, showing the number and local position of each of the armories, arsenals, and magazines of the United States, the time at which each was established, and the total expense of constructing and repairing the same, up to the end of the year 1821; also, the whole number of cannon and other arms made annually at each armory and arsenal, from its establishment to the end of the said year; also, an exhibit in detail of the expense of each armory and arsenal for each year from 1816 to 1821, inclusive; showing, First, the gross amount of money expended at each within each year: Second, the separate object to which the expenditure was applied: Third, the contracts and purchases made at each within each year; by whom and with whom; whether publicly or privately; with or without public notice; for what articles or materials; the amount of each contract; for all purchased, and the amount given therefor; the names of all concerned as principals, agents, and securities; their place of residence, and the failures which may have occurred in any contract: Fourth, the whole number of arms and equipments transmitted to each State and Territory in the Union, under the act of Congress for arming the whole body of the militia of the United States: Fifth, the whole number of cannon, arms, equipments, and munitions of war of every kind, distinguishing the different kinds, now belonging to the United States, and where placed: Sixth, the annual expense of transporting ordnance and ordnance stores from the places at which they were made or purchased, in the Atlantic States, to the places at which they were to be delivered, or used, in the Western States or Territories, specifying the several descriptions of arms and munitions so transported, and the cost thereof when purchased. The whole so arranged as to exhibit clearly the annual expenditure of the annual appropriation for each specific object.

The resolution was ordered to lie on the table one day.

The SPEAKER laid before the House a report of the Secretary of State on the petition of Lucy Lamb; which was read, and ordered to lie on the table.

Leave was given to withdraw the several petitions and memorials presented at the present session, upon which the House have not acted definitively, with their accompanying documents.

POTOMAC NAVIGATION.

Mr. STEWART submitted the following resolution for consideration, viz:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of authorizing the sale of the whole or a part of the

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public lots and grounds in the City of Washington, and vesting the proceeds of such sale or stock in a company incorporated within the District of Columbia, to co-operate with Virginia and Maryland in the improvement of the navigation of the Potomac river, from tide-water, in this city, to Cumberland, in the State of Maryland.

Mr. STEWART said he did not wish the House, at this late period of the session, to pass upon the resolution which he had just submitted; but, as it would be brought before Congress at an early period of the next session, he thought it but fair to give gentlemen an opportunity to examine it, for he felt persuaded that a candid and deliberate examination of the subject was alone wanting to secure its success. It was a measure, he said, of no ordinary importance—one to which the anxious attention of General WASHINGTON had been directed as early as the establishment of the Seat of Government, which he had pursued with zeal during his lifetime, and, had he lived to complete it, this city would now enjoy the high and proud rank which, as the capital of a great nation, it ought to occupy.

But, he said, he would not trouble the House, at this time, with a general view of the subject. He would confine himself to a few of the most prominent facts connected with it.

The proprietors of the city, he said, had granted to the Government, without any pecuniary equivalent, one-half of all the building lots, which, together with the public reservations, (part of which had been sold for an average of fifty cents per foot,) amounted to about 9,629 lots, which, at fifteen cents per foot, would produce \$7,220,750.

Suppose this estimate (which he read from the National Calendar of 1820) be reduced an half, it would leave \$3,610,875.

The sale of one-half (allowing nothing for the increase of value produced by this measure) would be \$1,805,437.

A sum more than sufficient, with the aid of Virginia and Maryland, the old company, and individuals, to accomplish the work. Thus, instead of near a thousand vacant and unproductive lots, (which can never be sold until something is done by Government to promote the prosperity and growth of the city,) you have a profitable stock, which, even at six per cent., would put into your Treasury \$108,326 per annum, and make the balance of your lots worth more than four times as much as the whole are now worth.

This, Mr. S. said, might, to some gentlemen, seem extravagant; but every doubt would vanish when it is considered that, by this measure, you place this city, for all the purposes of commerce, trade, and intercourse, within five or six miles of Cumberland, and within seventy-four miles, by land, of the western navigable waters at Brownsville. Is this fact denied? It is susceptible of the clearest proof. Mr. S. said he had been informed this morning, by an intelligent member from New York, who was acquainted with the operations on the canal lately constructed in that State, that a boat, with two horses, two men, and a boy, would carry fifty tons thirty-five miles in one day, at an

expense of between four and five dollars, exclusive of tolls. To carry the same quantity the same distance, would require at least twenty-five wagons, with five horses each, two days, at five dollars each per day, would amount to \$250, (exclusive of tolls on a turnpike,) requiring a capital of near \$13,000, besides the wear and tear of 25 wagons and 125 horses. The result, Mr. S. said, was a difference of as 5 to 250, or 1 to 50. The distance from Washington City to Cumberland was 188 miles by water—not equal to four by land. If the facts, as he received them, were true, and he could not doubt it, the result was inevitable. Thus you remove the capital to the centre of the Union; it is made to follow the march of power to the West; you place it in the midst of a rich and productive country; you carry the supply of goods into the neighborhood of the consumer, for which he can easily exchange his produce—you place the market near his door. It has been ascertained that a few western counties have produced 400,000 barrels of flour and whiskey in one year; by this improvement they would save at least one dollar per barrel in transportation; and even Kentucky sends her tobacco in wagons, across the mountains, to this District. It might also be remarked, that the city of Baltimore, by carrying into effect the proposed cross-cut from Frederick, would enjoy the same advantages with this city.

Independent of the numerous advantages to result from this measure, in a political, military, and commercial point of view, Mr. S. begged leave to advert to one which he thought alone would compensate for the whole expense in a few years. It was the coal trade. Many of the mountains through which this river passes, Mr. S. said, were constituted of coal, which could be deposited in boats for four or five cents per bushel, and the carriage by water to this city being equal to only four miles by land, they could not cost more than ten or twelve cents—superior to what now cost thirty-seven cents; but suppose they cost seventeen cents per bushel, still you have a saving of twenty cents, which, upon the amount consumed in the District alone, would produce, from a calculation made, \$320,000 per annum. Besides, by reducing the price of fuel and of every species of marketing, by affording an easy access to the rich and productive countries bordering on the Potomac, you reduce the price of living in this city, as well to foreigners and strangers who visit the Seat of Government, as to the members of this body. By placing this city near two hundred miles in advance of other seaports, you give it commercial advantages which will add to your revenue, payable at the door of the Treasury; you increase the growth and prosperity of the national city, and enable its inhabitants to live without looking to the offall of the public Treasury for their daily bread. The foreigner who visits you, with high expectations, will no longer go away disappointed; he will find something to delight him, to edify him, and to praise when he shall return to his own country. No great nation has ever been indifferent to the growth and prosperity of its capital; and why should we? This District is placed, by

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Orders of the Day.

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the Constitution, under the exclusive care and patronage of Congress; and it is our duty to attend to its interest. Here our powers are plenary; we cannot be met with Constitutional objections, which have lately become fashionable on subjects of this sort.

Mr. S. apologized for having so long trespassed on the patience of the House, and said he would only add, that if, in a political point of view, it was of no importance to connect the Eastern and Western sections of the Union, by the ties of interest and intercourse; if it were of no importance to facilitate the transportation of the military means of the country in times of danger or of war; if it afforded no advantages to the people of the East and West, in a commercial point of view—still, with a single eye to speculation and to revenue, it was the interest and the duty of the Government to adopt this measure; by it you make this a great commercial city, and bring your revenue to the door of your Treasury; by it you reduce the price of living, and increase your comforts here; by it you enhance the value of the public property in the District, six or eight fold, you bring it into market, and out of the proceeds of a part of it, you acquire a productive stock, adding, perhaps, one or two hundred thousand dollars per annum to your revenue. No wonder, then, he said, that this had been a favorite object with the illustrious WASHINGTON; no wonder it had been near and dear to his heart, as was every thing connected with the good and glory of his country. It was a measure, he said, worthy the approbation of every statesman of liberal and enlightened views, and he hoped the day was not far distant when it would be adopted.

The question being taken on the consideration of the resolution, it was determined in the negative.

ORDERS OF THE DAY.

The House then went into a Committee of the Whole, on bills from the Senate for the relief of the legal representatives of Joseph Hodgson, deceased; a bill for the relief of the sureties of Joseph Pettypool; and a bill for the relief of the legal representatives of Greenberry H. Murphy; which were respectively reported to the House, concurred in, and ordered for a third reading.

The bill for the relief of John Coffee (making an allowance for extra services rendered as Surveyor General) was read the third time, and was opposed by Mr. COCKE; on whose motion, after some opposition from Mr. MOORE, of Alabama, the bill was laid on the table.

The bill for the relief of the legal representatives of Joseph Hodgson, was read the third time, and, after some remarks adverse to its passage by Mr. COCKE, and an unsuccessful motion by him to lay it on the table, the bill was passed without a division.

The House again went into a Committee of the Whole, on a bill for the relief of John Coffee; a bill for the relief of the legal representatives of John Donnelson, Thomas Carr, and others; and a bill explanatory of the act for the relief of James

Leander Cathcart; which were gone through with and reported to the House.

The bill for the relief of John Donnelson gave rise to some debate. It was advocated by Messrs. REID, of Georgia, and RANKIN, and opposed by Messrs. TRACY and COCKE; and, on motion of Mr. TAYLOR, it was laid on the table.

The following bills from the Senate, heretofore considered in Committee of the Whole and ordered to a third reading, were severally read a third time, passed, and returned to the Senate.

The bill for the relief of Joseph Pettypool; the bill for the relief of the legal representatives of Greenberry H. Murphy; the bill explanatory of the act for the relief of James L. Cathcart.

The House then, on motion of Mr. FLOYD, took up, and read the third time, the bill from the Senate to repeal the fourteenth section of the act of last session reducing the army; and, after an explanatory remark from Mr. F. as to the practical operation of the rules and regulations adopted by the said fourteenth section, the bill was passed.

The bill granting a tract of land to William Conner and his wife and their children, being under consideration in Committee of the Whole—

Mr. HENDRICKS briefly explained the nature of the claim, which originated in an indirect assurance, on the part of our agents in the treaty held at St. Mary's, of granting him the said land in consideration of his having used his influence to induce the Indians to agree to the treaty.

Mr. COCKE opposed the claim, on the ground that it was unjust to hold out a lure to those who have been adopted by the Indians to betray their nation. The sanction of the Government ought not to be given to such conduct. It tarnished the honor, and derogated from the dignity of this people, to bribe individuals to betray the nation that had given them protection.

The said bill, as also a bill for the relief of Richard Matson, and a bill for the relief of Thomas Shields, were gone through with, and reported to the House; where the two latter bills were concurred in, and on the former, a debate arose similar in its character and principle to that which took place in Committee, in which Messrs. RANKIN, COCKE, ROSS, COOK, HENDRICKS, WRIGHT, and VANCE, participated; and, after an ineffectual motion by Mr. COCKE to lay it on the table, the bill was ordered to be engrossed for a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES, which, with the accompanying documents, was ordered to be laid on the table.

To the House of Representatives of the United States:

I transmit to Congress translations of two letters from Don Joaquin d'Anduaga to the Secretary of State, which have been received at the Department of State, since my last Message, communicating copies of his correspondence with this Government.

JAMES MONROE.

WASHINGTON, May 6, 1822.

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Collection of Duties, &c.

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COLLECTION OF DUTIES, &c.

The House then went into a Committee of the Whole on the bill from the Senate to provide for the collection of duties on imports and tonnage in Florida, and for other purposes; a bill to authorize the building of lighthouses therein mentioned, and for other purposes; and a bill further to establish the compensation of the collectors of the customs, and to alter certain collection districts, and for other purposes.

Mr. BASSETT moved an amendment to the second section of the bill, the purport of which was to leave Hampton, in Virginia, a port of entry. The motion was advocated by the mover, and Mr. H. NELSON, and opposed by Mr. NEWTON, and Mr. HILL, and negatived—ayes 28, noes 66.

Mr. KENT moved to strike out the words "by Nottingham, to the district of Annapolis;" and after a few remarks thereon by Mr. KENT, Mr. SMITH, of Maryland, and Mr. NEWTON, of Virginia, the question was taken thereon and lost.

Mr. H. NELSON observed that this was an important bill in relation to the revenue of the country—that it was difficult to retain a quorum in the House on the several questions proposed—and he therefore moved that the Committee rise and report progress, which was agreed to—ayes 52, noes 50. The two former bills were concurred in, and ordered to be engrossed for a third reading, and the Committee were refused leave to sit again on the latter bill.

Mr. BASSETT moved that the said bill be laid on the table, on which motion Mr. HILL called for the yeas and nays, which were thereupon ordered, and the question was decided in the negative—yeas 39, nays 92. So the motion to lay the bill on the table did not prevail.

Mr. A. SMYTH called for the previous question, but the call was not sustained by the House—yeas 52, nays 54.

The House then took into consideration the various amendments proposed by the Committee on Commerce.

Mr. WALWORTH moved to erase from those amendments the word Vermont, and Mr. TAYLOR proposed to strike out Champlain, from the operation of the said amendments, as recommended to the 8th section.

The motion to strike out was opposed by Mr. TOMLINSON, and negatived.

Mr. CAMBRELENG moved to strike out of the 9th section the words "New York." Mr. C. remarked, that he considered any attempt to amend the bill hopeless; but he thought there were some very strong circumstances in favor of excepting the revenue officers of the port of New York from the general reduction now about to be made. No gentleman would accuse him (Mr. C.) of a disposition to oppose any bill tending judiciously and justly to retrench the expenses of Government. He regretted that this bill had been kept back so long as to preclude debate. He would only detain the House a few moments. The salaries of these officers were regulated in 1790, and they have never been augmented or diminished since; in 1802 they were limited as they now are;

it would be recollected that this was during Mr. Jefferson's Administration. Mr. C. was not the eulogist of that or any other Administration, but he believed it had been properly deemed an economical Administration. By looking to the history of the revenue of the port of New York, it appeared that in 1790, the amount of the revenue collected was \$470,000; at that time in the whole United States, the revenue collected was little more than three millions. The revenue collected at the port of New York last year, was \$7,200,000, and he presumed that during the present year the revenue would be between nine and ten millions, or equal to the half of the whole revenue of the United States. He asked whether, under these circumstances, it was proper or just to reduce the salaries of these officers. There were no officers under the Government who more faithfully earned their salaries—there was no department of the Government, Treasury, War, Navy, or State, with all their auditors and clerks, which performed as much labor as was executed at the custom-house at New York. As we had a few days since virtually rejected the bill reducing our own compensation, he hoped the House would, for this session, at least, forbear to touch the salaries of officers whose labors and responsibility had been so much increased in thirty years. It was a mistaken policy to change the salaries of revenue officers.

Mr. CHAMBERS again moved the previous question, which was sustained by the House—yeas 67, nays 46.

Mr. SERGEANT called for the yeas and nays; which were thereupon ordered.

Mr. H. NELSON called for the reading of the bill; but the SPEAKER decided that the reading, under the circumstances of the case, (it having been read a first and second time,) could not be required.

Mr. NELSON appealed from the decision of the Chair; which was affirmed—ayes 103, noes 9.

The question, "Shall the main question be now put?" was then taken by yeas and nays, and decided in the affirmative—yeas 85, nays 51, as follows:

YEAS—Messrs. Alexander, Allen of Massachusetts, Archer, Barber of Connecticut, Bateman, Blair, Borland, Burrows, Campbell of Ohio, Cannon, Casedy, Chambers, Cocke, Conkling, Conner, Crafts, Crudup, Cuthbert, Darlington, Denison, Dickinson, Durfee, Eddy, Floyd, Gist, Gross, Hardin, Harvey, Hawks, Hemphill, Hendricks, Herrick, Hill, Hooks, Jackson, Kirkland, Leftwich, Lincoln, Litchfield, Little, Long, McCoy, Mallary, Matlack, Matson, Mattocks, Metcalfe, Mitchell of Pennsylvania, Moore of Pennsylvania, Murray, Patterson of Pennsylvania, Pitcher, Plumer of New Hampshire, Plumer of Pennsylvania, Reid of Geo., Rhea, Rich, Ross, Ruggles, Russ, Sanders, Scott, S. Smith, Arthur Smith, Alexander Smyth, Spencer, Sterling of Connecticut, Stewart, Swan, Tannall, Taylor, Thompson, Tomlinson, Tracy, Trimble, Tucker of South Carolina, Upham, Vance, Walker, Whipple, White, Williams of Virginia, Williams of North Carolina, Wilson, and Worman.

NAYS—Messrs. Barstow, Bassett, Blackledge, Brown, Cambreleng, Colden, Cook, Cushman, Dane,

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Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Farrelly, Findlay, Fuller, Gorham, F. Johnson, J. S. Johnston, Jones of Virginia, Jones of Tennessee, Kent, McCarty, McDuffie, McLane, McSherry, Mercer, Milnor, Moore of Alabama, Morgan, Neale, Nelson of Maryland, Nelson of Virginia, New, Newton, Patterson of New York, Phillips, Pierson, Poinsett, Rankin, Reed of Massachusetts, Sergeant, Sloan, Stoddard, Tod, Tucker of Virginia, Van Wyck, Walworth, Warfield, Williamson, Wood, and Woodcock.

The main question, Shall the bill, with the amendments, be ordered for a third reading? was then put, and it was carried in the affirmative.

On motion of Mr. WALWORTH, a recess was ordered until 6 o'clock.

Evening Session.

Mr. FULLER moved a resolution calling for a copy of the letter of Mr. RUSSELL, referred to in the Message of the President of the United States of yesterday, together with such communications as may have been received on the subject from any other of the persons composing the mission of Ghent; which resolution, according to the rules of the House, lies on the table one day of course.

Mr. SANDERS, from the committee appointed to inquire into certain alterations said to have been made in the rules and regulations for the government of the Army of the United States, delivered in a report of some length, which concludes with a resolution directing the committee to be discharged from the further consideration of the subject; which report was ordered to lie on the table.

The following bills from the Senate, viz: a bill for the relief of Richard Matson; a bill granting a tract of land to William Conner, his wife, and their children; a bill authorizing the payment of a sum of money to Thomas Shields; were read a third time, passed, and returned to the Senate.

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act making further appropriations for the military service of the United States for the year 1822, and for other purposes;" with amendments; in which amendments they ask the concurrence of this House.

OFFICERS OF CUSTOMS, &c.

The bill further to establish the compensation of officers of the customs, and to alter and establish certain collection districts, was read a third time as amended in this House.

On the passage of this bill there arose a debate, in which Messrs. NELSON of Virginia, CAMBRELENG, SERGEANT, and WOOD, opposed the bill, and Messrs. NEWTON, TOMLINSON, SAWYER, and WALWORTH, supported the bill.

The question was determined finally in the affirmative—yeas 100, nays 35, as follows:

YEAS—Messrs. Alexander, Allen of Mass., Barber of Conn., Bateman, Blackledge, Borland, Brown, Burrows, Burton, Campbell of New York, Campbell of Ohio, Cannon, Cassedy, Chambers, Cocke, Conner, Crafts, Crudup, Cushman, Cuthbert, Darlington, Dur-

fee, Eddy, Edwards of North Carolina, Eustis, Floyd, Gilmer, Gist, Gross, Hall, Hardin, Harvey, Hawks, Hendricks, Herrick, Hill, Hooks, Hubbard, Jackson, F. Johnson, Jones of Virginia, Jones of Tennessee, Keyes, Kirkland, Leftwich, Lincoln, Litchfield, McCoy, Mallary, Matlack, Matson, Mattocks, Metcalfe, Mitchell of Penn., Murray, Neale, Nelson of Massachusetts, Newton; Overstreet, Patterson of Pennsylvania, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reed of Maryland, Reid of Georgia, Rhea, Rich, Ross, Ruggles, Russ, Sanders, Sawyer, Scott, Sloan, S. Smith, Arthur Smith, W. Smith, A. Smyth, Spencer, Stewart, Stoddard, Tatnall, Taylor, Thompson, Tomlinson, Tracy, Trimble, Tucker of Virginia, Tucker of South Carolina, Upham, Vance, Van Rensselaer, Walker, Walworth, Whipple, White, Williams of Virginia, Williams of North Carolina, Warfield, Williamson, and Woodson.

NAYS—Messrs. Archer, Ball, Barstow, Bassett, Cambreleng, Colden, Cook, Edwards of Connecticut, Farrelly, Findlay, Fuller, Hemphill, J. S. Johnston, Little, Long, McCarty, Mercer, Milnor, Moore of Penn., Moore of Virginia, Moore of Alabama, Morgan, Nelson of Virginia, Phillips, Pierson, Pitcher, Rankin, Rogers, Sergeant, Swearingen, Tod, Wood, Woodcock, Worman, and Wright.

CUMBERLAND ROAD.

On motion of Mr. TRIMBLE, the several orders of the day were postponed for the purpose; and the House proceeded to the reconsideration of the bill, entitled "An act for the preservation and repair of the Cumberland road," which was returned to this House by the President of the United States on the 4th instant, with the objections which appear upon the Journal of the 4th instant, and which said bill is in the words following, to wit:

An Act for the preservation and repair of the Cumberland road.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to cause to be erected, on the national road leading from Cumberland, in the State of Maryland, to the river Ohio, so many toll houses, gates, and turnpikes, as, in his opinion, will be necessary and sufficient to collect the duties and tolls hereinafter mentioned, from all persons travelling on the same, to be erected at such places as he may determine: *Provided,* That the number of such gates and turnpikes shall not exceed twelve, nor be less than six; and that such gates and turnpikes shall be erected at a distance not less than ten miles from each other.

Sec. 2. And be it further enacted, That, as soon as the said gates and turnpikes shall be erected, the President of the United States is hereby authorized to appoint, or cause to be appointed, toll-gatherers, to demand and receive, for passing the said turnpikes, the tolls and rates hereinafter mentioned, who may stop any person riding, leading, or driving, any horses, cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall respectively have paid the same, that is to say: For every space of twenty miles in length of the said road, the following sums of money, and so in proportion for any greater or lesser

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distance, to wit: For every score of sheep or hogs, six and a quarter cents; for every score of cattle, twelve and a half cents; for every led or droye horse, one cent; for every horse and rider, six and a quarter cents; for every sleigh or sled, for each horse or ox drawing the same, three cents; for every dearborn, sulkey, chair, or chaise, with one horse, twelve and a half cents; for every chariot, coach, coachee, stage wagon, phaeton, chaise, or dearborn, with two horses and four wheels, eighteen and three-quarter cents; for either of the carriages last mentioned, with four horses, twenty-five cents. For every other carriage of pleasure, under whatever name it may go, the like sum, according to the number of wheels and horses drawing the same. For every cart or wagon, whose wheels do not exceed the breadth of four inches, six and one fourth cents for each horse or ox drawing the same. For every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceeding six inches, three cents for every horse or ox drawing the same; and every other cart or wagon, whose wheels shall exceed six inches, shall pass the said gates free and clear of toll: *Provided*, That the President of the United States may authorize the superintendent of the road to commute the rates of toll with any person, or persons, by taking of him or them a certain sum annually, in lieu of the tolls aforesaid: *And provided, also*, That nothing in this act shall be construed so as to authorize any tolls to be received or collected from any person passing to or from public worship, or to or from his common business on his farm or woodland, or to or from a funeral, or to or from a mill: *And provided further*, That no toll shall be received or collected for the passage of any wagon or carriage laden with the property of the United States, or any cannon or military stores belonging to the United States, to any of the States composing this Union, or any person or persons on duty in the military service of the United States, or the militia of any of the States.

SEC. 3. *And be it further enacted*, That the said toll gatherers shall settle their accounts quarterly with the superintendent of the road, and at all other times when thereunto required, and shall, at all times, pay over to him, on demand, the amount of tolls by them collected; and it shall be his duty to account for the same with the Secretary of the Treasury, once in each year, and quarterly, if required. And the said superintendent and toll gatherers shall govern themselves by the rules and regulations which the President of the United States may from time to time prescribe.

SEC. 4. *And be it further enacted*, That the amount of tolls, after deducting therefrom the expenses and charges of collection, shall be applied, under the direction of the President of the United States, to the repairs and preservation of said road, in such manner, and under such regulations, as he may from time to time prescribe, and to no other purpose whatever.

SEC. 5. *And be it further enacted*, That directors shall be erected at proper and convenient situations, to caution all conductors or drivers of carriages on the road aforesaid, that they shall at all times pass on the left of each other, under the penalty of three dollars for every offence.

SEC. 6. *And be it further enacted*, That the President of the United States is hereby authorized to increase or diminish the tolls established by this act, in case it should be found upon trial that the sums col-

lected is more, or less, than is necessary to keep the said road in repair; and to increase or lessen the tolls from time to time, on any particular kind of travelling or transportation, so as to preserve an equitable scale of rates, and to increase or diminish the tolls at such seasons of the year as he may direct: *Provided, however*, That the items of tolls shall not, at any time, be increased to more than double the rates herein established and allowed.

SEC. 7. *And be it further enacted*, That if any of the toll gatherers shall unreasonably delay or hinder any passenger or traveller, at any of the gates, or shall demand or receive more toll than is by this act established, he shall, for each and every such offence, forfeit and pay, to the party so aggrieved, the sum of ten dollars.

SEC. 8. *And be it further enacted*, That if any person who shall use the said road, shall, with a view to evade the payment of the tolls required by this act, leave the said road, and go round the said gates, every such person shall, for every such offence, forfeit and pay to, and for the use of, the United States, the sum of twelve dollars.

SEC. 9. *And be it further enacted*, That the toll gatherers on the said road shall, respectively, receive compensation for their services at the rate of twelve per cent. on the amount of tolls by them respectively collected: *Provided*, That the annual compensation of any toll gatherer shall never exceed the sum of three hundred and fifty dollars, nor shall the same be less in any one year than one hundred and twenty dollars; and, in case of any deficiency in the amount collected by any toll gatherer, below the sum of one hundred and twenty dollars, the residue shall be paid out of the tolls collected at the other gates on the said road.

SEC. 10. *And be it further enacted*, That, for repairing the Cumberland road, the sum of nine thousand one hundred and ninety-four dollars and twenty-five cents, (being an unexpended balance of money appropriated by act of third March, one thousand eight hundred and nineteen, for completing the same,) be, and is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated: *Provided, however*, That all expenditures arising under this act, or connected with the support or repair of said road, beyond the sum herein appropriated, shall be defrayed out of the tolls collected under said acts, and from no other fund.

Mr. BASSETT, with a view to such a consideration of the subject as its importance appeared to him to require, moved to refer the bill and objections to a Committee of the Whole; but the House refused to commit the bill.

Mr. WRIGHT expressed in strong terms his approbation of the Message of the President, particularly on the ground that, to impose a toll on this particular road, while other roads were free, would be an unequal and oppressive tax, &c. He was, however, in favor of keeping this road in repair at the expense of the United States.

The question was then taken, "Shall this bill pass, notwithstanding the objections of the President of the United States?" and the vote was as follows:

YEAS—Messrs. Barstow, Bateman, Blackledge, Burrows, Campbell of Ohio, Cassidy, Chambers, Cocke, Cook, Cushman, Cuthbert, Darlington, Deni-

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Military Appropriation Bill.

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son, Dickinson, Durfee, Eddy, Edwards of Connecticut, Findlay, Fuller, Hardin, Hemphill, Hendricks, Hill, Hooks, Hubbard, Jackson, F. Johnson, Jones of Tennessee, Kirkland, Leftwich, Little, McCarty, McDuffie, Mercer, Metcalfe, Milnor, Montgomery, Moore of Pennsylvania, Moore of Virginia, Neale, Newton, Patterson of Pennsylvania, Plumer of New Hampshire, Plumer of Pennsylvania, Rankin, Reid of Georgia, Rich, Ross, Russ, Sanders, Sawyer, Scott, Sergeant, Sloan, S. Smith, W. Smith, Stewart, Stoddard, Swearingen, Tod, Tomlinson, Trimble, Upham, Vance, Walker, Walworth, Williams of Virginia, and Woodson—68.

YAYS—Messrs. Speaker, Alexander, Allen of Massachusetts, Archer, Ball, Bassett, Blair, Borland, Burton, Butler, Cambreleng, Campbell of New York, Cannon, Colden, Conner, Crafts, Crudup, Edwards of North Carolina, Eustis, Farrelly, Floyd, Gilmer, Gist, Gross, Harvey, Hawks, Hobart, J. S. Johnston, Jones of Virginia, Lincoln, Litchfield, Long, McCoy, McSherry, Matlack, Matson, Mattocks, Mitchell of Pennsylvania, Moore of Alabama, Morgan, Murray, Nelson of Massachusetts, Nelson of Virginia, Overstreet, Patterson of New York, Phillips, Pitcher, Reed of Massachusetts, Reed of Maryland, Rhea, Rogers, Ruggles, Arthur Smith, Alexander Smyth, Spencer, Sterling of Connecticut, Tatnall, Taylor, Thompson, Tracy, Tucker of Virginia, Tucker of South Carolina, Van Wyck, Whipple, White, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, Worman, and Wright—72

Two-thirds of all the members being required to carry this question, and a majority having voted against it, it was of course not carried; and the bill was rejected.

A bill from the Senate to authorize the building of lighthouses therein named, and for other purposes, was read a third time, and sent to the Senate for concurrence in the amendments made thereto in this House.

MILITARY APPROPRIATIONS.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making further appropriations for the military service of the United States for the year 1822, and for other purposes:" the first whereof proposes to add to the appropriation of \$50,000 for Fort Calhoun, these words: "This appropriation not to be regarded as a confirmation of the contract made with Elijah Mix in regard to this fort."

A motion was made by Mr. WILLIAMS, of North Carolina, to amend the said amendment, by inserting therein, after the word "confirmation," the words "or disaffirmance." And the question being taken thereon, it was determined in the negative.

And debate having thereupon arisen on the question to agree to the amendment of the Senate as aforesaid—

Mr. SAWYER called for the previous question, and the same being demanded by a majority of the members present, it was put in the form prescribed by the rules and orders of the House, to wit: Shall the main question be now put? And passed in the affirmative.

The said main question was then put, to wit: Will the House agree to the amendment of the Senate as aforesaid? And was determined in the negative—yeas 40, nays 80, as follows:

YEAS—Messrs. Burrows, Campbell of Ohio, Cannon, Chambers, Cocke, Conkling, Conner, Cuthbert, Edwards of Connecticut, Eustis, Floyd, Hardin, Harvey, Hendricks, Hooks, F. Johnson, Kirkland, Leftwich, Lincoln, McCarty, McCoy, Mallary, Matlack, Metcalfe, Murray, Reed of Maryland, Reid of Georgia, Rhea, Ross, Ruggles, Russ, Arthur Smith, W. Smith, Tracy, Vance, Whipple, White, Williams of Virginia, Williams of North Carolina, and Woodson.

NAYS—Messrs. Alexander, Archer, Ball, Barber of Connecticut, Barstow, Bassett, Bateman, Blackledge, Borland, Brown, Cassidy, Condict, Cook, Crafts, Cushman, Dane, Darlington, Denison, Dickinson, Durfee, Edwards of Connecticut, Farrelly, Findlay, Fuller, Gross, Hawks, Hemphill, Hill, Hubbard, Jackson, J. S. Johnston, Keyes, Litchfield, Little, McDuffie, McSherry, Mattocks, Mercer, Milnor, Mitchell of Pennsylvania, Moore of Pennsylvania, Moore of Virginia, Moore of Alabama, Neale, Nelson of Massachusetts, Nelson of Maryland, Nelson of Virginia, Newton, Overstreet, Patterson of New York, Patterson of Pa., Phillips, Pierson, Pitcher, Plumer of Pennsylvania, Rankin, Rich, Rogers, Sawyer, Sergeant, Sloan, S. Smith, Sterling of Connecticut, Stewart, Swearingen, Taylor, Tod, Tomlinson, Tucker of Virginia, Tucker of S. C., Upham, Van Wyck, Walker, Walworth, Warfield, Williamson, Wood, Woodcock, Worman, and Wright.

The second and last of the amendments of the Senate to the said bill was then read as follows:

Insert the following new section as the second:

"**SEC. 2.** *And be it further enacted,* That a sum not exceeding nine thousand dollars, to be expended under the direction of the President of the United States in repairing the public road leading from Cumberland, in the State of Maryland, to Wheeling, in Virginia, be and the same is hereby appropriated."

And on the question to agree to this amendment, it was also determined in the negative—yeas 47, nays 65, as follows:

YEAS—Messrs. Bateman, Campbell of Ohio, Cassidy, Chambers, Cook, Cushman, Dane, Darlington, Durfee, Hardin, Harvey, Hemphill, Hendricks, Herrick, Hill, Jackson, F. Johnson, J. S. Johnston, Little, McCarty, Mallary, Mercer, Metcalfe, Milnor, Moore of Pennsylvania, Moore of Virginia, Neale, Nelson of Maryland, Patterson of Pennsylvania, Pierson, Rankin, Rich, Ross, Sloane, S. Smith, W. Smith, Stewart, Swearingen, Tomlinson, Trimble, Vance Walker, Warfield, White, Williams of Virginia, Woodson, and Wright.

NAYS—Messrs. Alexander, Archer, Ball, Barber of Connecticut, Bassett, Borland, Brown, Cambreleng, Cannon, Colden, Condict, Conkling, Conner, Crafts, Denison, Eddy, Edwards of Connecticut, Edwards of Pennsylvania, Edwards of North Carolina, Farrelly, Findlay, Floyd, Fuller, Gross, Hawks, Hooks, Hubbard, Keyes, Kirkland, Leftwich, Lincoln, McCoy, McDuffie, McSherry, Matlack, Mattocks, Mitchell of Pennsylvania, Murray, Nelson of Massachusetts, Nelson of Virginia, Overstreet, Plumer of New Hampshire, Plumer of Pennsylvania, Reed of Massachusetts, Reid of Georgia, Rhea, Rogers, Ross, Sergeant, Arthur Smith, Sterling of Connecticut, Taylor, Tod, Tracy,

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Tucker of Virginia, Tucker of South Carolina, Upham, Walworth, Whipple, Williams of North Carolina, Williamson, Wilson, Wood, Woodcock, and Worman.

And then the House adjourned.

TUESDAY, May 7.

Ordered, That the Committee on the Judiciary be discharged from the further consideration of all such matters and things to them referred at the present session upon which they have not reported.

Mr. SERGEANT, from the Committee on the Judiciary, to whom was referred a bill from the Senate to relieve the people of Florida from certain ordinances, reported the same without amendment; which was ordered to a third reading.

Mr. EUSTIS, from the Committee on Military Affairs, reported the Senate's bills for the relief of Clarence Mulford and Joseph D. Boyd, with a recommendation that they be postponed; and, on motion of Mr. E., they were ordered to be laid on the table.

Mr. EUSTIS, from the same committee, to whom was referred a resolution concerning loans of powder and lead, made a report thereon rather unfavorable to the officers who made the loans; which report, on motion of Mr. E., was ordered to be laid on the table.

Mr. EUSTIS moved for the printing of the report and documents.

This motion gave rise to a conversation, in which it appeared, from the statements of Mr. WALWORTH and Mr. MATTOCKS, that a majority of the whole number of the committee (that is, 4 out of 7) were opposed to this report, although a majority of the members present this morning (that is, 3 out of 5) had agreed to it. Mr. COCKE suggested that a majority of all the members present of the committee were certainly competent to report on any subject referred to a committee.

The House refused to print the report and documents; and Mr. MATTOCKS then moved to proceed to the consideration of the report, but the House refused to consider it.

The Committee on Military Affairs, and the Committee on the Public Lands, were discharged respectively from all petitions and other matters before them, which have not been heretofore disposed of.

The resolution laid upon the table yesterday by Mr. FULLER, calling for information from the President of the United States in relation to a letter from Jonathan Russell, Esq., late a commissioner to conclude the Treaty of Ghent, referred to in a late Message from the President, was then taken up.

After some conversation between Mr. FLOYD, Mr. FULLER, and Mr. COCKE, as to the propriety of again asking of the Executive a paper which he had already once declined furnishing, the question on adopting Mr. FULLER's motion was finally agreed to without a division.

Mr. COCKE then moved that the House now proceed to the consideration of the resolution proposing the appointment of a committee to sit du-

ring the recess of Congress, to examine into the different departments of the Government; but the House refused to consider the same.

Mr. SAWYER again moved to take up the joint resolution proposing an earlier day for the commencement of the next session of Congress, but the House refused to consider the same.

Mr. COOK submitted the following resolution, viz:

Resolved, That the Secretary of the Treasury be directed to prepare and lay before this House, as early in the next session as may be practicable, a statement showing the amount of money which appears to have stood to the credit of the United States, or its Treasurer, in every bank in which the public money has been deposited at the end of each quarter, since the first day of January, 1817; distinguishing between special and general deposits. A particular and minute account of each transfer of the public money from one bank to another, which has been made within the aforesaid period, and the reasons and motives for making the same. A detailed account of the special deposits that have been made in any of the banks; the time when made; the description of the notes so deposited, and the reasons for making the same; together with any contract or contracts under which these deposits were made. The precise amount and an exact description of the unavailable funds of the Treasury; what part thereof was unavailable at the time of deposit; how long any part thereof remained on deposit before it became unavailable, and why it became so. Showing the respective accounts and relations of the United States with each bank; together with all correspondence in possession of the Department with each of those banks in relation to any of the foregoing objects.

The resolution was ordered to lie on the table one day.

Mr. BUTLER, from the committee appointed on the 22d of April last, to inquire into the contract between the War Department and Elijah Mix, of the 25th July, 1818, and report whether the same was made in pursuance of law; and whether the said Mix has performed his covenant; and such other facts as they may deem proper relative to said contract,—made a report thereon, which was read, and ordered to lie on the table.

A Message, was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives:

In compliance with the resolution of the House of Representatives, of the 23d of April, requesting the President of the United States to cause to be communicated to that House certain information respecting the lead mines in the State of Missouri, I herewith transmit a report of the Secretary of War.

JAMES MONROE.

WASHINGTON, May 7, 1822.

The Message and documents were laid on the table.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act for the benefit of Reuben Hickman, Fielding Hickman, and Joshua Cannon;" "An act further to amend these several acts relative to the Treasury, War, and Navy Departments;" "An act confirming the claims to

lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the commissioners appointed by the United States;" "An act to establish certain roads, and to discontinue others"—with amendments to each; in which amendments they ask the concurrence of this House.

NAVIGATION OF THE POTOMAC.

Mr. KENT, from the Committee for the District of Columbia, to which have been referred at the present session sundry memorials from inhabitants of the State of Pennsylvania, soliciting the aid and patronage of Congress in the improvement of the navigation of the Potomac river, made a report thereon, which was ordered to lie on the table. The report is as follows:

The Committee of the District of Columbia, to whom was referred sundry memorials from the inhabitants of Pennsylvania, Maryland, and Virginia, praying the aid of the Federal Government towards the improvement of the navigation of the river Potomac, have, according to order, attentively considered the object of the memorialists, and beg leave to submit to the House of Representatives, in relation thereto, the following report:

That, by the concurrent acts of the Legislatures of Maryland and Virginia, a company were incorporated in the year seventeen hundred and eighty-four, on the recommendation of General George Washington, for the improvement of the navigation of the river Potomac, and its principal branches, above tide water. The seventeenth and eighteenth sections of this act prescribed the conditions upon which the tolls granted to the company should be exacted, and a limitation to the duration of their charter. By a supplementary act those conditions were modified, and the period limited for the completion of the navigation of the river, in the mode prescribed, has been, from time to time, extended by subsequent laws of Maryland and Virginia.

No legal inquiry has ever been regularly executed, so far as your committee are informed, in order to ascertain whether the "Potomac Company have complied with the terms of their charter." After the expenditure of their subscribed stock, to the amount of \$311,555; of the tolls of more than twenty years' collection; and of the farther sum of \$174,000, borrowed by the company of the State of Maryland, of the banks of the District of Columbia, and of private individuals, it is universally acknowledged that the navigation of the river is most defective.

In all this period the stockholders have received but one inconsiderable dividend; and their stock will not command in the market, where, however it is seldom found, a moiety of its nominal value.

It is, in fine, now ascertained, that, without further and very considerable aid from the States immediately interested in the navigation of the Potomac, or from the General Government, the great object sought to be attained by the improvement of that navigation—a commercial intercourse, through this channel, between the Western and Atlantic States, will be entirely defeated.

Will the Congress of the United States interpose, and have they the power to prevent a result so deplorable?

A hasty survey of the general map of the United States, and a brief recurrence to the theory and policy

of the Federal Government, with their practical illustration by the structure of the Cumberland road, would seem almost to supersede the necessity of any comment from your committee on the importance of the navigation of the Potomac, or the power of Congress to provide for its improvement.

One of its southern branches, itself a considerable river, rises to the southwest of Staunton, in Virginia, and is capable of connecting, by a navigable canal, the geographical centre of that State, in territory the largest of the Union, with the market towns of the District of Columbia. Emptying into the Potomac above the chief obstructions of its navigation, the Shenandoah, like those navigable streams which descend from the northwest, through the limestone valleys of Maryland and Pennsylvania, depends, for an outlet to the ocean, on the improvement of the navigation of the main river to a considerable distance above tide water. These branches, when the stem shall have been improved, are capable of affording, with the Potomac, an internal water communication, exceeding, in extent, six hundred and fifty miles.

The value of this navigation to the ample and fruitful territory washed by the tide, or drained by the tributary streams of this noble river—a territory comprehending four counties of Pennsylvania, seven of Maryland, and eighteen of Virginia—exceeding, in extent and population, some of the largest States of the Union, should not be disregarded. It sinks, however, into comparative insignificance, when this river is contemplated as a necessary link of the shortest chain of communication between the Atlantic and Western States. The enlightened policy which seated the Federal Government on the banks of the Potomac, indicates its peculiar adaptation to this purpose; and nature has facilitated its accomplishment by a rupture of the many ranges of lofty mountains, including even the great ridge of the Alleghany, in the direction which such a purpose requires. It is no longer questionable but that the head waters of the Ohio may be mingled with those of the Potomac, by a tunnel or subterranean canal, not exceeding two miles in extent; and the produce of the soil and industry of the West, after ascending the Youghiogany, find a safe and commodious channel; thence to the valley of Savage creek, and through it, the north branch, and the main river, to the Chesapeake and the Atlantic.

The patriotism which exults in the approaching connexion of the Hudson with the northern lakes; in the efforts of the Carolinas and Virginia, to unite, by short portages, the sources of the Santee and Pedee with those of the Tennessee and of the Roanoke and James rivers with the Great Kanawha, cannot but regard this central river of the Union with peculiar interest.

Notwithstanding all its claims to general favor, the Potomac is, however, exposed to the serious disadvantage of being, throughout its whole course, the common boundary of States, whose enterprise and resources are attracted to other objects of internal improvement, some or all of which are rivals of this; and all its markets, once the property of those States, are, by the cession of the District of Columbia to the General Government, confided to the exclusive guardianship of Congress.

With an almost boundless authority over the District of Columbia, the Government of the United States acquired new, urgent, and daily increasing interests in the navigation of the Potomac.

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In the rapid improvement and consequent security of the seat of the Federal Government from foreign danger, are involved, not only the preservation of the property and lives of its inhabitants, the accommodation and comfort of its numerous public functionaries, but, in no small degree, the national character and honor. The most deplorable calamity of the late war would, doubtless, have been averted, had the Capitol of the United States been encompassed by the dense population of a large city—by such a population as would unquestionably succeed the contemplated improvement of the navigation of the Potomac. And if sordid views may be allowed to mingle with considerations of such inestimable consequence, it may be added that, with the growth of the numbers and opulence of a great commercial emporium, would, of necessity, arise a corresponding appreciation of the value of all the disposable public lands in the city of Washington; consisting of more than five thousand vacant lots, and now computed at near two millions of dollars; it is not unreasonable to suppose that their value would be quadrupled by a prospect of their early occupation and improvement.

Your Committee are aware that this calculation may be, indeed has been impugned, by referring to the value of the commodities which have hitherto descended the Potomac. The very origin of this report, in the present imperfect and hazardous navigation of the river, suggests an answer to this objection. It may be corroborated by another; the tolls of a single turnpike, in length but thirty-four miles, leading to the town of Alexandria, have exceeded in one year twenty-five thousand dollars, or very near a fourth of the annual interest of a sum sufficient to complete the navigation of the Potomac, from its tide-water to the Cumberland road. This great and costly work, itself, so honorable to the wisdom and beneficence of the United States, awaits this improvement to yield all that it has promised to the Union.

If the relative expense of transportation, by land and by water, be properly estimated, the completion of a canal, from the tide to Cumberland, would have the effect of approximating the Seat of Government to within a few miles of the Allegany; while the extension of this canal, at some future period, would occasion that formidable barrier to disappear, in the intercourse of the Eastern and Western States. It is by such a canal that your committee propose to supply the place of the present defective navigation of the Potomac. As this river affords the shortest water line of communication between the tide of the sea and the eastern base of the Allegany, so is its current the most rapid, when compared with that of the other great rivers which have their sources in this chain of mountains. Wherever the science of civil engineering has been long and successfully applied to inland navigation, your committee are assured that the use of the natural beds of wide and rapid rivers has been superseded by a resort to navigable canals, extending along their margin, and fed by their currents until met by the tide. Without a recourse to this expedient, the ascent of the Potomac by a loaded boat cannot be overcome, it is believed, at an expense less than that which attends the transportation of equal burdens over like distances, along the ordinary roads of the adjacent country. The consequence must be, that every downward cargo is chargeable with double freight, exclusive of insurance against the repeated hazard to the boat, and the lives of those who guide it, of total destruction.

From a navigation so impeded and so dangerous, all bulky commodities are, of necessity, excluded, and yet it is from the transportation of such articles that the chief part of the revenue of any canal is derived. In the table of tolls, annexed to this report, it is apparent that the entire estimate of the commodities which ascend the Potomac, although they comprise a greater value in less bulk, bears but a very small proportion to the amount of those which descend the river; while these must be regarded as of very inconsiderable value, when compared with the numerous and diversified productions of the extensive and fertile country which should find its market on the banks of this river.

Can it be owing to any other cause than the defective navigation of the Potomac, that the buildings of Washington are cemented with the lime of Rhode Island, and warmed in winter with the mineral coal of James river? The last is dug and raised, at much cost, transported twelve miles over land to the port of shipment, and thence conveyed by a circuitous navigation of five hundred more to the District of Columbia. The former is calcined by fuel of a value, enhanced by its scarcity, and its vicinity to a market, in which it is applied to various uses, and it is afterwards transported, even farther than the latter, with the superior hazard of the sea, augmented not a little by the peculiar character of the commodity itself. What would be the tolls upon the transportation of these necessary and bulky commodities, beds of which, inexhaustible in quantity, and excellent in quality, are found in the vicinity of each other, near the surface of the earth, and on the very margin of the Potomac, if a navigable canal connected Cumberland with Washington; and how rapidly would the demand for them increase with the progress of the population and wealth of the markets of the Chesapeake? The consumption of salt, by which the East would pay, in part, for these valuable minerals of the West, in the extensive grazing country of the Alleghany and its parallel ridges, would give increased activity and profit to this intercourse. In the channel of communication between the works of Onondaga and the waters of the Ohio, this heavy commodity is now subjected to a most circuitous water conveyance, by vessels of different capacities and draughts, and that transportation itself is interrupted by several portages.

Iron everywhere abounds, and copper has already been found in the mountains drained by the Potomac. Their valleys yield luxuriant crops of hemp and flax, and the forests of oak and pine which climb their summits, are destined, it is to be hoped, to supply future navies with the means of raising the blockade of the Chesapeake.

It was by this channel of intercourse, imperfect as it now is, that, during the late war, Louisiana supplied the Atlantic States with sugar; Tennessee with cotton; and Kentucky with saltpetre, that necessary material of defence. Were this communication as perfect as it can be rendered, an enemy, who succeeded in closing the mouth of the Mississippi, in order to paralyze the industry of the West, would have, also, to win from the fleets of the Union, the possession of the Chesapeake. Through this channel, in case of war with a formidable naval Power, the West would not only supply the East with the valuable products of the Mississippi, but make its return for the wines of Africa and the various manufactures of Europe and Asia, in the cloths of Steubenville and the cutlery and glass of Pittsburg. Should such a

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war be as extensively conducted on land as on the ocean, the cost of the contemplated canal would be saved by the United States in a single campaign.

Your committee are aware that other channels of communication across the Alleghany may be greatly improved, and rendered tributary to the general welfare of the United States, both in peace and war; in the latter, by the additional security which they would afford to the commerce of the interior, and by the vigor which they would impart to all the operations of the Federal Government for the common defence. On the other hand, it will readily be conceded, notwithstanding the preference which may be given, by local interests, to other objects of internal improvement, that whatever facilities the commercial, social, and political connexion between the remote extremes, and the Seat of the General Government of so vast a Republic as the United States, must have the same propitious influence, as would result, were it otherwise practicable, from contracting the extent of its territory, without reducing the number, impairing the wealth, or abridging the comfort and happiness of its people. To all the friends of liberty in America, who regard the State governments as essential parts of the republican system, erected on a scale so broad as to create alarm for its duration, or who, with no less truth, regard the Union of those States as the bond alike of their freedom and independence, *every measure* which has the effect of diminishing the extent of the one, while it multiplies and strengthens the ties of the other, must be viewed with earnest solicitude. But another inquiry remains—Has Congress the power to insure its success?

So numerous and so various are the benefits accruing to every nation from inland navigation, so urgently have the United States been invoked, by the character and genius of their institutions, to diffuse their advantages over a territory, which nature has eminently fitted to receive them, that a former Congress sanctioned by their voice, a system of internal improvement coextensive with the wants of the nation.

Your committee are not unmindful of the impediment which arrested the progress of that system, and could not expect success in their present effort, in behalf of one of its objects, if the proposition which they are about to submit to the House of Representatives were liable to similar objections. The committee have studiously sought to guard against their application, and confidently hope that they will be found to have succeeded.

Two proposals have already been offered to the House, in the course of the present session of Congress, by the Committee on Roads and Canals, in relation to the Potomac. Neither of them interferes with the plan for the improvement of the navigation of that river, which this committee have presumed to recommend. One of them, embraced by a resolution for the appointment of commissioners to survey the route and estimate the expense of a navigable canal, seems to your committee to be, in a great degree, superseded by the annexed report of the Principal Engineer of Virginia, to the Board of Public Works of that State; and as an incorporated company already exists, with ample authority to make the contemplated improvement, there does not remain any apparent necessity of waiting for the prosecution of this work, until a more extensive system of internal improvement be devised by Congress.

The committee simply recommend the combination

of the proceeds of sales of the public property in the city of Washington, which, according to the original plan of the city, was designed to be sold, with such sums of money as the Legislatures of Maryland and Virginia and the citizens of those and of the adjacent States may voluntarily subscribe, for the purpose of extending a navigable canal from the foot of the Little Falls of the Potomac, to the commencement of the Cumberland road. They propose to annex to this public and private subscription, the condition, that the Potomac company shall previously assent, with the approbation of the Legislatures of Maryland and Virginia, to such alterations of their present charter, as will admit the United States, those States, themselves, already interested in the stock of the company, and the new subscribers, to participate, on fair and equitable principles, in their future revenue. These alterations would, among other obvious effects, provide for the payment of the debts of the company, and for the reduction of the nominal, by some liberal reference to the actual value of their present stock.

In order to obviate the necessity of selling the public lots in the City of Washington, before the contemplated improvement of the navigation and commerce of the District of Columbia shall have caused the anticipated appreciation of their value, as well as to complete the canal in the shortest possible time; without drawing immediately for large sums upon the public Treasury, the States of Maryland and Virginia, and the individual subscribers of new stock, your committee propose, that the United States shall borrow, on the public faith, and a specific pledge of all the public lots reserved for sale, a sum, receivable in semi-annual instalments, sufficient to complete the entire work in three years, from the date of the first instalment.

Referring to the annexed report of the Chief Engineer of Virginia, and computing the total cost of the contemplated canal at two millions and a half of dollars, your committee recommend that an amount of stock, in the capital of the company, not exceeding half a million, be reserved to pay the debts of the Potomac Company, and to reimburse the present stockholders, including the States of Maryland and Virginia; and that the above loan be limited to two millions of dollars, and applied to defray the expense of the additional works required to complete the canal.

Your committee have reason to believe that two millions of United States stock, bearing an interest of four per cent, payable semi-annually, and irredeemable for twenty-eight years, could be sold, in Europe or America, at par. To provide for the payment of the interest, and the final reimbursement of the principal of this debt, it is proposed, that the United States shall subscribe one million of dollars to the stock of the Potomac Company, on the conditions already suggested; the States of Maryland and Virginia six hundred thousand dollars, and individuals the remaining four hundred thousand; that, on the stock thus subscribed, there shall be charged an annuity for twenty-eight years, of six per cent. per annum, payable semi-annually; four per cent. of which shall be applicable to the payment of the interest on the two million loan, and two per cent. to the creation of a sinking fund, to be invested, from time to time, as received, in productive stock, in order to provide for the redemption of the principal of the loan, at the expiration of twenty-eight years.

Such is the scheme which the committee presume to recommend for extricating the Potomac Company

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from their present embarrassments, and accomplishing a work which, unassisted, they cannot effect, although of inestimable importance to the public.

Complicated as this scheme may, at first, appear, it involves, in its prosecution, the exercise of no other powers on the part of Congress, than, 1st, the power of selling the public lots in the City of Washington, which were acquired expressly for sale. 2dly, That of borrowing money on the public faith, and a specific pledge for its repayment; and, lastly, the application of the public treasure to an object of general welfare; or the investment of it in the stock of an incorporated company, expected to yield an annual income.

The committee will not swell this report, already too far extended, by arguments to demonstrate, that all these powers are vested, by the Constitution, in the Congress of the United States, either expressly, or by natural implication. They involve neither the incorporation of a private company, nor the condemnation of the lands of individuals, within the territory of any State, for national purposes. They do not extend the jurisdiction of the General Government over the persons or property of the citizen, nor purpose to derive, from the assent of any one or more States, any power which has not been granted to the Federal Government by the people of the United States.

Your committee forbear to answer all the objections which this, like any other plan of internal improvement, may be expected to encounter. They are contented to set against such objections some of its peculiar advantages; that, connected with the Cumberland road, it will complete a great national object, calculated to perpetuate the Union, and to promote the prosperity and glory of the United States; that, while it accomplishes this object in the short compass of three years, its cost will be distributed over the revenue of eight and twenty; that this cost will be greatly reduced by the credit which enables the American Government to negotiate its loans at so low a rate of interest as four per cent.; that, by the completion of the entire work in so short a period, that loss of interest on unproductive stock, which most canal companies have encountered, and which, in some similar enterprises, has exceeded the principal of their stock, will be prevented; that if the dividends of the Potomac Company shall, after the completion of the canal, yield six per cent. per annum to the stockholders, they will, from that moment, have nothing further to pay for their stock; and after the lapse of twenty-eight years, or possibly a shorter period, they will be found to have paid but nine per cent. of its par value, for a property which, in all human probability, will have more than doubled that value. One of the most prominent and best features, perhaps, of this plan, for accomplishing an object of general welfare, is, that it combines in its execution private with public wealth, and thus effects such a co-operation of individual interest with public good, as will insure, in the original construction as well as the subsequent repairs of the canal, vigilance, economy, and fidelity, in all the disbursements of money, qualities so often required in vain, in the expenditure of public money, on public account.

Should the loan, on which this plan eventually depends, be negotiated abroad, it will be, because it leaves for more profitable application, in America, the sum which it is designed to withdraw from other channels of wealth and enterprise. If it charge a debt upon posterity, it must be again repeated, that it is

to complete a work, as durable as that Union to which the people of America must look, now and hereafter, for the security of all their political and social happiness. Your committee submit the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to report a bill in conformity with the principles contained in the preceding report.

PUBLIC ARMORIES, &c.

The resolution laid upon the table yesterday by Mr. FLOYD, calling for information from the President of the United States respecting the condition of the public armories, arsenals, their cost, &c., was taken up.

Mr. FLOYD observed that this was an important subject, with the nature and extent of which, neither himself, nor, he believed, he might add, the House, was well acquainted. From the year 1816 about \$200,000 had been annually appropriated for our armories; but how it was applied, or whether and how far the militia had been armed in consequence of it, he was not prepared to say, and wished to be informed. The largest army on earth, he observed, of men, women, children, and sutlers, might have been armed from the appropriations that had been made for this object.

Mr. SMITH, of Maryland, made some explanation of the subject, in which he expressed his entire conviction that the armories of the United States had been managed with fidelity, ability, and economy. Yet, for the satisfaction of gentlemen, he had no objection to the resolution.

Mr. FLOYD observed, in reply, that he had no objection to the arms. They were the best, in point of skill, and strength, and workmanship, he ever saw; but he thought it expedient and necessary to obtain further information on this important subject.

The resolution was then agreed to.

Mr. TUCKER, of South Carolina, moved that when the House adjourns, to-day, it adjourn to meet at six o'clock to-morrow. This motion was opposed by Mr. TAYLOR, but was carried—yeas 68, nays 33.

On motion of Mr. SMITH, of Maryland, a resolution was passed, instructing the Clerk of the House to pay an assistant, (Mr. Fletcher,) employed in his office, and to continue his services.

Mr. NELSON, of Virginia, submitted resolutions for making certain allowances to the messengers of this House, for extra services, and also to the youths employed in the service of the House, on the floor of the House; which, after some conversation, and amendment, were agreed to.

Mr. REED, of Maryland, called for the consideration of the resolutions submitted by him some days ago, calling on the Secretaries of the Departments, and the Postmaster General, for an account of the situation of their respective offices, &c., to be reported at the next session of Congress; but the House refused to consider the same.

Mr. TUCKER, of Virginia, called for the consideration of the resolutions heretofore submitted by him: 1st, for an increase of the number of the Committee on the Military Expenditures; and 2d, to direct the Judiciary Committee to inquire into

the expediency of enlarging the powers of the Attorney General, but the House refused to consider the same.

Mr. F. JOHNSON called for the consideration of the resolutions some time ago submitted by him; and the House agreed to consider the same—60 to 44.

The first resolution was read in the following words:

Resolved, That the practice which has obtained in the public offices in this city, (of not attending to business until nine or ten o'clock in the morning, and closing the offices at three o'clock, in the evening,) is inconvenient to those who have business to transact in them, is not such reasonable attention to the public service as should be given, nor such attention as the salaries allowed by law are entitled to command, and that the said practice ought to be abolished.

The question on this resolution was taken without debate, and decided in the affirmative by a majority of 20 or 30 votes.

The second resolution was read in the following words:

Resolved, That the President of the United States be requested to cause the respective Secretaries of State, of the Treasury, of War, and of the Navy, and the Postmaster General, to report to this House, on the second day of the next session of Congress, the number of active and well qualified Clerks, and Accountants, that will be necessary to perform the duties of their respective offices and departments, by requiring a reasonably constant, and diligent attention to business.

This resolution was agreed to by about the same majority as the first.

The third and fourth resolutions were modified by the mover so as to read as follows:

Resolved, That the number of officers and seamen of the Navy of the United States ought to be limited by law.

Resolved, That the President of the United States be requested to cause to be laid before this House, on the second day of the next session of Congress, a plan for a Peace Establishment of the Navy of the United States, and also of the Marine Corps.

These resolves were also agreed to by about the same majority.

Mr. TAYLOR submitted the following order, which was adopted:

Ordered, That the Clerk of the House cause to be prepared and printed, for the use of the members, a list of all business remaining undetermined, which, by the existing rule, is to be resumed and acted upon at the next session of Congress, designating bills, reports, and resolutions, committed, from those laid upon the table.

Mr. CHAMBERS called for the consideration of a bill from the Senate to authorize the selection of a suitable site for a National Armory on the Western waters; but the House refused to consider the same.

Mr. KENT called for the consideration of a bill from the Senate authorizing the Corporation of the City of Washington, to drain the low grounds in the vicinity of the Capitol, and to ornament the said city; and the House agreed to take it up—

and the question being put on its third reading, thereupon arose a debate of an hour's length.

The bill was supported with considerable animation by Messrs. TAYLOR, NEALE, WOODCOCK, KENT, WHIPPLE, STEWART, and LITTLE, and opposed by Messrs. SMITH, of Maryland, and MALLARY.

Mr. MALLARY moved to amend the bill by striking out the four last sections, which provide for determining in chancery the equity of the claim, or pretended claim, of any of the original proprietors to the lots proposed to be laid out, and in lieu thereof requiring a relinquishment, prior to the execution of the work, of all claims to the lots on the part of the original proprietors.

The debate was ended, and this proposed amendment put aside, by the previous question, moved by Mr. COOK, (who was favorable to the bill,) and sustained by the House.

The main question on ordering the bill to a third reading, was then taken, and decided in the affirmative by a considerable majority.

A bill from the Senate for the collection of duties on imports and tonnage in the Territory of Florida, and for other purposes, was read a third time; but, before the question was taken, it was suggested by Mr. CAMPBELL, of Ohio, that there was not a quorum present in the House.

After a short time, Mr. WHITE moved for a call of the House, but the call was negative; and, a quorum appearing, the bill was passed.

A bill to relieve the people of the Territory of Florida from the operation of certain ordinances, was read a third time, and passed.

A bill to authorize the Corporation of the City of Washington to drain the low grounds in the vicinity of the Capitol, and to ornament certain parts of the said city, &c., was read a third time, and, on the question of its passage,

Mr. NELSON, of Maryland, moved to recommit the bill, with instructions so to amend it as to obtain the assent of the original proprietors, or their legal representatives, and all persons claiming under them.

After a few remarks, by Mr. HARDIN and Mr. NEALE,

The motion to recommit was lost, and the bill was read a third time, and passed.

Mr. BUTLER, from the select committee, to whom was referred the resolution in relation to the Rip Rap contract, made a report thereon, concluding with the following resolve:

Resolved, That further appropriations to be expended under the contract made by the Engineer department with Elijah Mix, ought not to be made.

The report, with the documents, was ordered to be laid on the table, and printed.

The following bills passed through a Committee of the Whole, viz: A bill for the relief of Matthew McNair; and a bill for the relief of Samuel Walker.

The House then went into a Committee of the Whole, on a bill from the Senate to try the validity of the title of the Marquis de Maison Rouge; a bill for the relief of Josiah Hook, jr.; and a bill for the relief of John Holmes.

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Some discussion ensued upon the first-mentioned bill, in which Mr. COCKE moved to strike out the enacting clause, on the ground that the House was thin and the claim important, and of such a description as ought not to be hurried through at this late period of the session. After some discussion, in which Messrs. RANKIN, COCKE, J. S. JOHNSTON, and SERGEANT, took part, the motion was withdrawn; and the Committee rose and reported the bills to the House.

The report of the Committee of the Whole in the case of John Holmes was concurred in; and that for the relief of Josiah Hook, jr., on motion of Mr. RICH, was ordered to be laid on the table. A further discussion ensued upon the passage of the bill to authorize a mode of trying the validity of the title of the Marquis de Maison Rouge. The bill was opposed by Mr. HARDIN, and supported by Mr. F. JONES; when Mr. COCKE moved that the bill be laid on the table, which was agreed to—ayes 50, noes 39.

The following bills were read a third time, and passed: A bill for the relief of John Holmes; a bill for the relief of Samuel Walker; a bill for the relief of Matthew McNair.

The following bills passed through a Committee of the Whole, viz: A bill granting a right of pre-emption to Noble Osborne and William Doake; a bill for the relief of the President and Directors of the Planters' Bank of New Orleans; and a bill authorizing the payment of a sum of money to John Gooding and James Williams, which were ordered to be engrossed for a third reading.

The following bills passed through a Committee of the Whole, viz: A bill for the relief of Jacob Babbitt; a bill for the relief of James H. Clarke; a bill for the relief of Samuel H. Walley and Henry D. Foster; and a bill for the relief of Andrew Mitchell; all which were reported to the House.

The bill for the relief of Samuel H. Walley and Henry D. Foster, was ordered to be laid on the table; and that for the relief of James H. Clarke was concurred in, and ordered for a third reading. The question of concurrence in the case of Andrew Mitchell being under consideration, Mr. McSHERRY moved that the House again go into Committee of the Whole thereon, for the purpose of granting similar relief to Nathaniel White. The motion prevailed, and, in Committee of the Whole, Mr. McSHERRY proposed the said amendment, but it was negatived; and the Committee rose, and again reported the bill for the relief of the original petitioners only. On the question of ordering the said bill to a third reading, some debate ensued, in which Messrs. MCCOY, SERGEANT, WILLIAMS of North Carolina, and A. SMITH, took part; but, before any decision thereon, the House, on motion of M. WOODCOCK, ordered a recess until 6 o'clock.

EVENING SESSION.

Mr. RHEA gave notice that at 10 o'clock to-morrow he would move for a call of the House.

The question before the House at the time of

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the recess was upon laying the bill for the relief of Andrew Mitchell on the table.

A quorum having appeared, the motion to lay it on the table was put, and negatived. And the question then recurred upon ordering the said bill to be engrossed for a third reading; which was advocated by Messrs. FARRELLY, WOODCOCK, CANON, and S. SMITH; and opposed by Messrs. WILLIAMS of North Carolina, WRIGHT, MALLARY, MCCOY, COCKE, RHEA, and HILL, who moved that the bill be laid on the table; which was carried—ayes 61, noes 40.

A bill from the Senate for the relief of James H. Clarke was ordered to a third reading.

The amendments proposed by the Senate to the bill, entitled "An act to amend the several acts relative to the Treasury, War, and Navy Departments," were read, and concurred in by the House.

A bill to establish certain post roads, and to discontinue others, returned to this House from the Senate with sundry amendments, being under consideration—

Mr. F. JOHNSON moved to postpone the bill to the first Monday of December next, because the other bill respecting the Post Office having been rejected, the Post Office would have no money to spare for new post routes.

The motion was opposed by Messrs. VANCE, RHEA, FLOYD, EDWARDS of North Carolina, ROSS, and McNEILL, &c.; and was negatived.

Mr. RHEA moved to lay the bill on the table; which was negatived.

The amendments of the Senate were then taken up, and, with one exception, agreed to.

The amendment proposed by the Senate to the bill, entitled "An act for the benefit of Reuben Hickman, Fielding Hickman, and Joshua Cannon," was read, and concurred in by the House.

The following bills from the Senate were read a third time, and finally passed, viz: A bill granting the right of pre-emption to certain lands to Noble Osborne and William Doake; a bill for the relief of the President and Directors of the Planters' Bank of New Orleans; a bill authorizing the payment of a sum of money to John Gooding and James Williams. The bill from the Senate for the relief of Jacob Babbitt was read a third time, and, on motion of Mr. TOMLINSON, laid on the table, (postponed to next session.)

The bill from the Senate for the relief of James H. Clarke, was read a third time; and, on motion of Mr. HILL, was, after some debate, ordered to lie on the table, (postponed to next session.)

The bill from the Senate "for ascertaining claims and titles to land within the Territory of Florida," passed through a Committee of the Whole, and was finally read a third time and passed.

The bill from the Senate for ascertaining claims and titles to land within the Territory of Florida; and the bill from the Senate supplementary to the several acts for adjusting the claims to land and establishing land offices in the district east of the island of New Orleans, were taken up, passed through the necessary forms, and finally passed.

The bill from the Senate "to designate the

boundaries of a land district, and for the establishment of a land office in the State of Indiana;" and the bill from the Senate to establish an additional land office in the State of Illinois," passed through a Committee of the Whole. The latter bill was, on motion of Mr. HARDIN, ordered to lie on the table, but was afterwards taken up, and finally passed.

Mr. RHEA moved also to lay the former on the table, which motion being rejected, the question was stated on ordering the bill to a third reading; and debate arising thereon, the previous question was required by Mr. TAYLOR, and taken, and the bill finally passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

In compliance with a resolution of the House of Representatives of the 7th of May, requesting the President of the United States "to communicate to that House the letter of Jonathan Russell, Esq., referred to in his Message of the fourth instant, together with such communications as he may have received relative thereto, from any of the other Ministers of the United States who negotiated the Treaty of Ghent," I herewith transmit a report from the Secretary of State, with the documents called for by that resolution.

JAMES MONROE.

WASHINGTON, May 7, 1822.

DEPARTMENT OF STATE,

Washington, May 7, 1822.

The Secretary of State has the honor of transmitting to the President of the United States his remarks upon the paper deposited at the Department of State on the 22d of last month, by Jonathan Russell, late one of the Plenipotentiaries of the United States at the negotiation of Ghent, to be communicated to the House of Representatives, as the letter called for by their resolution of the 19th of that month; and the Secretary of State respectfully requests that the President would transmit to the House of Representatives these remarks, together with the above mentioned communication of Mr. Russell, on the renewal of the call therefor by the House.

JOHN QUINCY ADAMS.

The Message and documents were ordered to be printed.

WEDNESDAY, May 8.

The House met at six o'clock, according to order, and, it appearing that a quorum was not present, and it being made known to the House that the Senate did not meet until ten o'clock to-day, a recess of this House was ordered until ten o'clock.

At ten o'clock the House re-assembled, and continued in session, with occasional recesses, until all the business which was transacted yesterday was put in form, and the necessary messages interchanged between the President and the two Houses.

In the course of the day, the following incidents took place:

Mr. SMITH, of Maryland, delivered in the following report from the Committee of Ways and Means:

The Committee of Ways and Means, to which was

referred the President's Message of the 2d inst. communicating several letters from Mr. Bagot, Mr. Antrobus, and Mr. Canning, in which they remonstrate on the part of the British Government, against the duty imposed on rolled bar iron, as a violation of the convention made between the United States and Great Britain,

Report. That the committee regret that the few days remaining of the session do not afford time sufficient to give the subject that consideration which its importance requires. They therefore decline to express any opinion on its merits, and recommend the subject to the early consideration of the House at the next session.

This report was read and ordered to lie on the table.

On motion of Mr. POINSETT, the Clerk of this House was authorized to purchase, for the use of the members, ten copies of the sixth volume of the Laws of the United States, published by Davis & Force of this city.

The House took up and proceeded to consider the reports of the Committee of Claims, on the cases of Stephen Mack and Shubael P. Conant, and of Henry B. Brevourt. Whereupon, it was ordered that the said reports be committed to a Committee of the whole House to-day.

The House took up and proceeded to consider the report of the Committee of Claims, on the petition of the representatives of Zachariah Schoonmaker; as also, the report of the Committee on Military Affairs, on the petition of Peter Mills. Whereupon, it was ordered that the said reports be committed to a Committee of the whole House to-day.

The resolution submitted by Mr. Cook, yesterday, was taken up, read, and agreed to by the House.

On motion of Mr. MALLARY, (Mr. TAYLOR being temporarily in the Chair,) it was

Resolved unanimously, That the thanks of this House be presented to the honorable PHILIP P. BARBOUR, for the assiduity, promptitude, and ability, with which he has administered the duties of the Chair during the present session.

Mr. HILL and Mr. LITTLE were appointed to announce to the President that the House had got through their business, and were ready to adjourn.

The Committee having a little before three o'clock stated to the House, that the President had informed them he had no further communication to make—

Mr. Speaker BARBOUR rose and addressed the House as follows:

At the commencement of the present session, when I was unexpectedly called by you to the Chair, I expressed the profound sense of gratitude which I felt for that distinguished mark of your confidence; at the close of the session, I have to acknowledge a new and increased weight of obligation, arising from the resolution which you have this day adopted. I should not, under any circumstances, have been vain enough to suppose that I could have passed through the long and laborious session, which is just about to be terminated, without falling into some error; still less could I have hoped for it, under the consciousness which I

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Adjournment—Supplemental Speech.

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felt of my inexperience in relation to the duties of my office; if, however, I have erred, I trust it has been in points not material; I know it has been unintentional; and the approbation which you have to-day expressed of my conduct affords to me a gratifying proof, that, whilst you have given me a generous credit for the purity of my motives, whilst you have, with a kind indulgence, overlooked my defects, you have done more than justice to my best efforts to merit your good opinion. The recollection of these things will long be cherished by me as a source of pleasure; it will add to a sense of duty, a new motive to endeavor, by every possible exertion, to acquit myself of the high responsibility of my office, in a manner satisfactory to you. At this moment of approaching separation, permit me to assure you of my friendship and good feelings to you all, and to express the sincere desire, that, upon retiring from the toils of legislation, you may have a safe and happy return to the bosoms of your respective families, and that, when you have arrived there, you may enjoy the happiness and peace which ought to belong to the domestic state.

The SPEAKER then adjourned the House until the *first Monday in December next*, the day fixed by the Constitution of the United States for the annual meeting of Congress.

SUPPLEMENTAL SPEECH.

[From the *National Intelligencer*, October 16, 1855.]

A RELIC OF THE LATE WILLIAM LOWNDES.—Of all the distinguished men who have passed periods of their lives in either House of Congress there is certainly no one, of any thing like equal ability, who has left fewer traces on the page of history, or on the records of Congress, than WILLIAM LOWNDES, the eminent Representative for several years of the State of South Carolina. Not that he was less honored and respected, as well for his elevated patriotism and his fine intellect, as for his high moral qualities and his social virtues, than any one of his contemporaries in public life. But that so few of his eloquent speeches are to be found on record is attributable, in part, to his unfeigned diffidence, which placed less than their true value upon his own exertions, and in part to an objection which he had, on principle, to the practice, then general, of *writing out* speeches for publication, either before or after the delivery.

A sketch, however, of one of the briefest of the speeches of this eminent statesman, (who but for his retiring modesty might, to our knowledge, have worn the highest honors in the gift of his Government,) we are now enabled to present to our readers, through the kindness of a friend, into whose possession it came by the death of a relative. Besides the rarity of this production, as an exception to Mr. L.'s rule to decline writing out his speeches, the subject to which it relates cannot fail to interest every reader who rightly appreciates the memory of PERRY, the renowned naval commander, whose victory on Lake Erie, during the war of 1812, gave safety to the exposed frontier of the country, and greatly contributed, with the subsequent events, to bring about an honorable and happy peace.

[Editors *Nat. Int.*

Endorsed in Mr. Senator SILSBEE's handwriting, "SPEECH of Hon. W. LOWNDES, for the Relief of the Family of Commodore PERRY, written off by Mr. L. at my request." Session of 1820-'21.—Jan. 23-4.

Mr. Chairman: I could wish, but I dare not hope, that the gentleman from Kentucky, (Mr. HARDIN,) by withdrawing his amendment, will afford to the Committee the opportunity of giving a direct vote on the bill which is before them. If the health of my friend from Virginia (Mr. RANDOLPH) had allowed him to explain his views to the Committee, I should have been entirely silent. As it is, I shall say but a few words.

We do not object to the law which defines the cases in which pensions may be given by the Executive Government, and limits their amount. It is right that there should be a general rule, and that prescribed by the law is a safe one. It is a law to the Executive Government. But it does not withdraw from Congress the power. It cannot supersede the duty of expressing our gratitude for signal services, and of providing (where the letter of the law does not do so) for the family of the man who lived and died for his country.

The gentleman from Kentucky says that Commodore Perry did not die of a wound. It was his last regret that he had not fallen on the quarter-deck of his own ship. But the disease which carried him off was one to which he could not have been exposed but in obedience to the orders of his Government. He died not only while he was in service, but, because he was in service. Shall we aggravate the irreparable loss of his family by leaving it in hopeless poverty? Gentlemen are unwilling to grant pensions. They are granted now. They fear, from the example of other nations, that we shall become profuse in our generosity. No Government has been lavish to the dead. Postpone the remuneration for the highest military services until the man who rendered them is no more, and the most suspicious economy may hug itself in confidence that the hour of dangerous extravagance has passed.

You will not say that our gratitude should end with the services of Commodore Perry—with his life? But, his services have not ended. We have still the inland seas which were recovered by his arms. His example lives; and if, at some period of future depression and dismay, we shall be told that single ships may annoy the commerce of our enemy, but that an assembled fleet would be a prize to a Power which it is wiser to elude than to resist, his example shall rebuke our weakness and enlighten our feeling. You will rally the desponding spirits of the country by his name. I am not willing to speak of the battle of Lake Erie. It is a theme for pride and emulation, and that temper is subdued in me now, by the condition of that man's family, to whom we owe the victory. But, though I cannot describe, never shall I forget the circumstances of that battle. Courage might have saved your fleet from capture, not from destruction. The highest praise of other men would have been to take refuge from captivity in honorable death. *The battle was al-*

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ready lost; and it was at a moment when the rarest union of skill and courage could not have effected a retreat, that the genius of Perry gave you a victory. You all remember the despondence which preceded that victory, the confidence which followed it. It gave a new, and, I trust, a permanent direction to the naval policy of this country. I know of no action of modern or of ancient times where success has resulted more undeniably from the personal conduct of the commander. Two of the greatest actions of our day have been decided by the arrival of an unexpected reinforcement.* But who will tell me of another commander, who, in the most desperate peril of his battle, left the command which he could not otherwise save, and brought back with him the reinforcement which saved his victory? The naval glory of the country is without spot. I make no invidious demon-

stration. I apply no prism to the ray to separate the different colors whose general character *is light*. But the Navy which has done so much for the nation feels how much has been done by the battle of Lake Erie for its character and its prospects. There is not a seaman whose homely meal would not be embittered by the reflection that the family of his old commander had been excluded from the bounty of his Government. If, Mr. Chairman, that commander had longer lived, if another war, if an Atlantic Navy—— But I must not pursue this course of observation. My mind is sufficiently filled with the recollection of what he was, without reflecting upon what he would have been. We have, gentlemen, the fullest proof that the objects of the proposed bounty are entirely destitute. The question is a simple one. Will you decide, by your votes, that the children of Commodore Perry shall be without education—his wife without a home?

* Marengo and Waterloo.

1897

1898

APPENDIX

TO THE HISTORY OF THE SEVENTEENTH CONGRESS.

[FIRST SESSION.]

✓
COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

SPAIN—DELIVERY OF THE FLORIDAS.

[Communicated with the President's Message, December 5, 1821]

Instructions to Colonel James G. Forbes.

DEPARTMENT OF STATE,
Washington, March 10, 1821.

SIR: The President of the United States, having occasion to employ a person to take to the Spanish Governor General of the island of Cuba the order from his Government for the delivery of the provinces of East and West Florida to the commissioners or officers of the United States duly appointed to receive them, has selected you as the agent for that purpose, and a certificate to that effect from this Department will be delivered to you with this letter.

You will forthwith repair to New York, and there take passage in the United States sloop of war Hornet, Captain Read, who will be instructed to receive you, and to proceed as soon as possible to the Havana. The order to the Governor General of Cuba, together with a letter from the Spanish Minister, General Vives, to him, is committed to you, and you will deliver it to him in person upon your arrival. You will urge the immediate execution of it, and will offer to take charge yourself of the Governor General's order to the Governor of West Florida. Should he prefer to transmit this by an officer of his own appointment, Captain Read will be authorized to give him a passage with you in the ship to Pensacola. You will also concert with him the means of transmitting the order for the delivery of the province of East Florida to the Governor at St. Augustine. It has been represented that the archives and public documents stipulated to be delivered up by the treaty are at the Havana, and, if so, you will require that they should be delivered to you, and take them with you in the ship to Pensacola, where you will keep them in safe custody till the arrival of Major Gen. A. Jackson, who is appointed Governor of the whole of the territories ceded, and to whom you will deliver them over, or to his order, taking a suitable receipt or

receipts for them, by duplicates, one of which you will transmit to this Department. On arriving at Pensacola, and communicating to the Governor the order from the Governor of Cuba, you will immediately give notice, by express, to General Jackson, who will be at Montpelier, in the vicinity of that place, that he may repair to it to receive possession; and you will then remain at Pensacola, giving information to this Department through the nearest mail (believed to be at Blakeley) of your proceedings. You will also communicate to this Department any information relating to the country which it may be useful for us to possess, and wait for such instructions as may be transmitted to you till the accomplishment of the objects of your mission.

Your compensation will be at the rate of eight dollars a day from the time of your departure from this place till your arrival at Pensacola; all your expenses on the passage are to be at your own charge; and from the time of your arrival at Pensacola the allowance will be six dollars a day till you receive notice that it is to cease. If you then conclude to return to New York, the allowance will be continued for a reasonable time, to admit of your return.

The papers herewith furnished you are—

1. A certificate of your appointment.
2. A commission authorizing you to demand and receive the archives.
3. The order to the Governor and Captain General of Cuba, with a letter to him from the Spanish Minister here.
4. Six copies of the treaty, with the ratifications, to be used as you may find convenient.
5. A copy of the order to the Governor of Cuba.
6. A copy of the act of Congress for carrying the treaty into execution.

It is proper to apprise you that if, by any accident, you should be prevented from executing the service herewith assigned to you, Mr. G. L. Thompson has a commission for performing it in your stead. I am, &c.

JOHN Q. ADAMS.

JAMES G. FORBES, Esq.

*Spain—Delivery of the Floridas.**Certificate of appointment to Colonel Forbes.*

JAMES MONROE, President of the United States of America, to all to whom these presents shall come, greeting :

Whereas, by the second article of the Treaty of Amity, Settlement, and Limits, concluded at Washington, on the 22d day of February, 1819, between these United States and His Catholic Majesty, it is stipulated as follows: "His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him situated to the eastward of the Mississippi, known by the name of East and West Florida, the adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property; archives and documents which relate directly to the property and sovereignty of said provinces are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States duly authorized to receive them."

And whereas the Envoy Extraordinary and Minister Plenipotentiary of his said Catholic Majesty at this place has delivered, to be transmitted to the Captain General and Governor of the island of Cuba, his said Majesty's royal order for the due execution of the said stipulation :

Now, therefore, I do hereby authorize and appoint James G. Forbes, a citizen of the United States, as agent and commissary of the United States, to deliver to the said Captain General and Governor the royal order aforesaid; to arrange and concert with him, conformably to the instructions herewith committed to the said James G. Forbes, the execution of the said stipulations, and to receive from the said Captain General and Governor, and from any and every person who may be possessed of the said archives and documents, all and every one of the same, and to dispose thereof in the manner prescribed by his instructions. And I do hereby request the said Captain General and Governor, and any and every person who may be in possession of any such archives and documents, duly authorized by or under the authority of His Catholic Majesty's Government, or otherwise, to deliver up the same to the said James G. Forbes, conformably to the above-recited stipulation of the said treaty. And a copy of this letter patent, certified by the said James G. Forbes, together with his receipt for the said archives and documents, shall be full and satisfactory proof of the fulfilment of the said stipulation, with respect to the archives and documents so by him received.

Given under my hand, and the seal of the said United States, at Washington, this 14th day [L. s.] of March, 1821, and in the forty-fifth year of the Independence of the United States.

JAMES MONROE.

By the President :

JOHN QUINCY ADAMS,

Secretary of State.

Special commission to Colonel Forbes.

JAMES MONROE, President of the United States of America, to James G. Forbes, of the State of New York, greeting :

Whereas, by the second article of the Treaty of Amity, Settlement, and Limits, concluded at Washington, on the 22d day of February, 1819, between these United States and His Catholic Majesty, it is stipulated as follows: "His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida, the adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property; archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States duly authorized to receive them."

Now, therefore, I do hereby authorize and appoint you, as commissary of the United States, to receive from any and every person, who may be possessed of the said archives and documents, all and every one of the same; and the said archives and documents to keep in safe custody until further order for the disposal of the same shall be taken.

Given under my hand, and the seal of the said United States, at Washington, this 14th day of March, 1821, and in the forty-fifth [L. s.] year of the Independence of the United States.

JAMES MONROE.

By the President :

JOHN QUINCY ADAMS.

Secretary of State.

Translation of the royal order of the King of Spain to the Captain General and Governor of the Island of Cuba, and of the Floridas.

FERDINAND THE SEVENTH, by the grace of God, and by the constitution of the Spanish monarchy, King of the Spains, to you, the Captain General and Governor of the Island of Cuba, and of the Floridas.

Know you, that, by a treaty concluded in the City of Washington, on the twenty-second of February of the last year, one thousand eight hundred and nineteen, by Plenipotentiaries duly authorized for the purpose of arranging the differences which have existed between the Government of Spain and that of the United States of America, and the limits of their respective territories, there was stipulated, on the part of Spain, the cession to the United States of all the country situated east of the Mississippi known by the name of East and West Florida; the adjacent islands dependent upon the two Floridas being comprehended in said cession, together with all public lots and squares, vacant lands, public edifices, for-

Spain—Delivery of the Floridas.

tifications, barracks, and other buildings, which are not private property, with the archives and documents which relate directly to the property and sovereignty of said provinces; it being provided, at the same time, that the inhabitants of the territories so ceded shall be secured in the free exercise of their religion, without any restriction; and that all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, in order that they may better effect their purpose, without being subject in either case to duties; and that those who prefer remaining in the Floridas shall be admitted, as soon as possible, to the enjoyment of all the rights of citizens of the United States; it being added, by another article of the same treaty, that the Spanish officers and troops shall evacuate the said territories ceded to the United States, six months after the exchange of the ratification of the same treaty, or sooner if possible, and shall give possession of them to the officers or commissioners of the United States duly authorized to receive them; and that the United States shall provide the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana. And I, having considered and examined the tenor of the articles of the treaty, after having obtained the consent and authority of the General Cortes of the nation with respect to the said cession, have thought proper to approve and ratify the treaty referred to, the ratification of which must be exchanged at Washington, with that which was formed by the President of the United States, with the advice and consent of the Senate of the same; after which exchange, the said treaty will begin to be obligatory on both Governments and their respective citizens; therefore, I command you, and ordain that, after the information, which shall be seasonably given you by my Minister Plenipotentiary and Envoy Extraordinary at Washington, of the ratifications having been exchanged, you proceed, on your part, to make the proper dispositions, in order that, at the end of six months, counting from the date of the exchange of the ratifications, or sooner if possible, the Spanish officers and troops may evacuate the territories of both Floridas, and that possession of them be given to the officers or commissioners of the United States duly authorized to receive them; in the understanding that the United States shall provide the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana. You shall arrange, in proper time, the delivery of the islands adjacent and dependent upon the two Floridas, and the public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, as also the archives and documents which relate directly to the property and sovereignty of the same two provinces, by placing them at the disposal of the commissioners or officers of the United States duly authorized to receive them; and all the other papers, and the effects which belong to the nation, and which have not been compr-

hended and mentioned in the expressed clauses of the cession, you shall have conveyed and transported to another part of the Spanish possessions which may be most convenient for the public service; as, also, you shall take care that, previous to the delivery, it may be made known, by edicts, to all the present inhabitants of the Floridas, that they have power to remove to the Spanish territories and dominions, the sale or exportation of their effects being permitted to them by the United States at any time whatever, without being subject to duties; and, also, the advantages stipulated in favor of those who shall prefer to remain in the Floridas, to whom I have wished to give this last proof of the protection and affection which they have always experienced under the Spanish Government. Of the delivery which you may make, or may be made by your delegation in the form which has been expressed, you shall make, or cause to be made, a corresponding receipt, duly authenticated, for your discharge; and, in order that you may proceed with entire knowledge in the execution of this commission, there shall be likewise sent to you, by my Minister Plenipotentiary at Washington, an authentic copy of the treaty referred to, of the twenty-second of February, one thousand eight hundred and nineteen, with the insertion of the ratifications of both parties, and of the certificate relative to the exchange of the same; of which documents, and of this my royal order, you shall send a copy, in authentic form, to the Governors of both the Floridas, and to the person or persons who may have, in your name, the accomplishing of the delivery, if it have not been made by yourself.

All which you shall well and completely execute in the form which I have prescribed to you, agreeably to the public service; advising me of your having executed it through my underwritten Secretary of Despatch of State.

Given at Madrid, the twenty-fourth of October, one thousand eight hundred and twenty.

FERDINAND.

Mr. Forbes to Mr. Adams.

HAVANA, April 28, 1821.

SIR: I have the honor to report to you that, after alternate strong gales and calms, the Hornet did not anchor in this harbor until the 22d instant, too late for business, had it not been on Sunday.

Governor Mahy received us very graciously on the following day, when I delivered to him the royal order for the delivery to the United States of the Floridas; and, after exhibiting to him my commission, he inquired "when I wished to proceed." I immediately replied, "as soon as possible;" which gave rise to a long conference, in which I offered to be the bearer of his order, and urged the expediency of despatch, as being most conducive to the true interests of both Governments. His Excellency stated that he would do every thing in his power to expedite me. I asked, when? which he answered by saying as soon as the records could be examined, selected, and in-

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ventoried. I then, to save time, expressed a wish to know the bulk, and that some of these might be dispensed with; but the interpreter who had been called in, officially, and otherwise unnecessarily, told me (by way of interloper) that there would be about twenty boxes of them, and that form as well as regularity required a punctilious inspection of them before they could be delivered to me. On retiring, his Excellency told me that we should be satisfied with each other.

The next two days were to close the holidays; notwithstanding which, the interpreter called upon me, by order of the Governor, to require my commission for translation, and to say that I must put to writing the substance of my conversation with his Excellency, which I immediately did; copy of which is herewith sent, under date of the 24th instant.

Allowing one day to intervene, I waited upon the Governor on the 26th, to ascertain the progress making in the departments to expedite me. I was well received, and told that the necessary orders had been given, and that, as soon as the convoy about sailing for Spain had departed, my business should be particularly attended to.

The interpreter, whom I again saw at the Governor's, mentioned the appointment of an officer to accompany me to Pensacola, and that he held the draught of a letter from the Governor in answer to mine. I regret, however, to state, sir, that, to the moment of closing this despatch, I have not received it, or any communication from him. I have, however, reason to hope that, on the arrival of the Intendant, hourly expected from the country, my stay will not be prolonged more than one week.

As some circumstances may occur during my agency which may be worthy of your notice, to be taken abstractedly, I shall submit them by reference as abstracts, and prepare them accordingly.

I am, with the greatest respect, sir, &c.

JAMES G. FORBES.

Mr. Forbes to Governor Mahy.

HAVANA, April 24, 1821.

MOST EXCELLENT SIR: When I had the honor of delivering into your Excellency's hands the royal order of His Catholic Majesty, through his Minister Plenipotentiary at Washington, for the delivery to the Government of the United States of the Floridas, conformably to the treaty ratified on the 22d February last, I took occasion to present my commission from the President, and to submit various reasons for carrying into immediate effect the stipulations of said treaty, by offering to be the bearer of the final order of possession, and of the archives and public documents.

If arguments were necessary to carry into effect a treaty as illustrative in its stipulations of the honor of the Spanish Government as, in its ratification, it is of the moderation and justice of that of the United States, and farther, in its completion, by the solid foundation it lays of a perpetual friendship between the two nations, I would offer the following for your Excellency's consideration:

That the messenger of His Catholic Majesty was nearly four months in reaching Washington, while the ratification of the treaty at Madrid reached this island in a few weeks.

That, from the 24th October, 1821, (date of the ratification at Madrid,) to the present day, a period of six months has been afforded, of which His Catholic Majesty's officers and subjects have virtually availed themselves in preparing for the surrender of the Floridas—an evident advantage to one party not unworthy of consideration, since no charge of delay has been ascribed to it.

That, while a natural impulse is felt on the one hand, by the citizens of the United States, to become possessed of a promised land, an anxiety equally natural has been manifested on the other, that of the Spanish subjects, to retire from a country about to change its government.

That the season for calms and contrary winds is fast approaching, which is calculated to impede seriously His Catholic Majesty's forces; while that of rain and of sultry weather may prove very injurious to the troops of the United States.

The gracious manner in which your Excellency has already evinced his disposition to satisfy these demands upon His Catholic Majesty's Government as soon as practicable, are such sources of satisfaction as will be highly appreciated by the President. I hope, therefore, that, according to the stipulations of the treaty, your Excellency will, with the least possible delay, appoint an officer to carry the ultimate orders for possession of the Floridas, by the constituted authorities of the United States, to accompany me in the Hornet sloop of war, Captain Read.

That the archives and documents relating to the Floridas may be accordingly delivered over to me.

That a mode may be adopted for the transmission to the Government of the United States of the final order (in duplicate form) from your Excellency, upon the sub-governors, for the delivery of the Floridas, in case of any accident to the officer accompanying me, and in any event for the delivery of East Florida contemporaneously with that of West Florida, whither the Hornet is bound. I have the honor to be, &c.

JAMES G. FORBES,

Commissary and Agent of the U. S.

His Exc'y Don NICHOLAS MAHY.

Mr. Forbes to Mr. Adams.

HAVANA, May 5, 1821.

SIR: Since I had the honor of addressing you on the 28th ultimo, I availed myself of the earliest opportunity of reminding the Governor of the disposition he had evinced of expediting me. This was afforded me incidentally on the 1st instant, when Mr. Warner desired me to present him as the commercial agent of the United States. After his Excellency gave this gentleman to understand, very pointedly, that he could not recognise him; or view him in any other light than as a merchant, divested of all public character, I observed to him that, as the convoy had sailed, I hoped his Excel-

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lency would enable me to proceed; upon which I was told that he was anxious to be disencumbered of the country, that orders had been given, and every necessary disposition was making by his secretary, with whom the matter now was, and by whom I should be apprized.

An assurance so gratifying was promptly met by a return of thanks for the early attention he appeared to have shown to my business; under which favorable impression I was about retiring, when it occurred to me to ask his Excellency whether he knew that the Intendant had given his orders on the subject? He appeared ignorant of any occasion for the interference of that officer, and put the question to the interpreter, who hesitatingly replied that "he might have."

This unexpected inconsonancy induced me to obtain an introduction to the register of the records which are in the department of the Intendant, with whom I conversed freely, and was told that most of the papers of this office were those of accountability, and unnecessary to the Government of the United States; that about ten boxes containing the records of grants of land in West Florida were taken by an insurgent privateer out of the vessel in which Governor Mazot was a passenger from Pensacola.

Having brought letters of introduction to the Intendant, which were, on my arrival, sent to him in the country, from whence he wrote me a note to say that he would be in town in a few days, I therefore felt myself at liberty to wait upon his secretary, to ascertain when he would arrive; he answered that it was very uncertain, and probably not before the middle of the month.

As the silence of the Governor and of his secretary might be attributed to the frequent holidays, I sought an occasion to see the former, by accompanying Captain Read to obtain an order to apprehend a man charged, as a citizen of the United States, with depredating on our commerce. His Excellency received us with his characteristic complacency, and agreed upon a course of procedure, reconciling his official duties with the rites of hospitality; then putting both his hands upon my shoulders, in the most friendly manner, said to me in French, (having previously conversed in Spanish,) "Quant à notre affaire, j'espère vous expédier sous peu de jours." I had scarcely time to thank him before he added "au moins d'ici"—meaning, no doubt, *his office*.

I have been thus minute in my detail, sir, that you might know precisely the situation in which my agency stands; and without calling attention to the various buzzes I have heard, I feel it my duty to advert to one which, if well founded, may be of vast importance; it is, that "the Government is very much in arrears to the officers, both civil and military, in the ceded provinces." In this case, moral obligation and honor may impel, or obvious policy may prescribe, that some provision or arrangement may be made for their satisfaction, previous to their change of position, and thus at least cause delay.

With the treaty before me, I see no other alternative than that of yielding, however reluctantly,

to the movements of the Governor, hoping that no political changes in Europe can take place to thwart the just expectations of our nation, or alter the pacific policy of its Government. I shall advise General Jackson of my progress here.

I am, with great respect, sir, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State*.

Mr. Forbes to Mr. Adams.

HAVANA, May 7, 1821.

SIR: In referring you to the enclosed letter, which I had the honor of writing on the 5th instant, I have that of submitting to you a copy of my letter of this date to General Jackson, who is said to be at New Orleans, whither Mr. Thompson proceeded this day in the steamboat with it.

The Governor has sent me a message to wait upon him to-morrow morning, the result of which shall be immediately communicated to you.

I am, with the greatest respect, sir, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State*.

Mr. Forbes to General Jackson.

HAVANA, May 7, 1821.

SIR: Commissioned by the President of the United States to deliver the royal order upon the Governor of Cuba, for the delivery of the Floridas to our Government, I was directed by the honorable Secretary of State to communicate with your Excellency upon my arrival in Pensacola, with the further order of the Governor to the Spanish authorities in the Floridas.

I arrived in the Hornet sloop of war on the 23d of last month, and was very favorably received by Governor Mahy, who expressed a wish to expedite me very promptly, as soon as the convoy for Spain sailed.

This assurance has been renewed to me occasionally since, but I regret to say that I am still uncertain when I can receive either the necessary order or the archives, which come also within the range of my commission.

I avail myself of the opportunity afforded by Mr. Thompson of making this communication, and take the liberty of suggesting to your Excellency the expediency of having a person at Pensacola from whom I can, on landing, receive such information as will enable me to communicate immediately with your Excellency by express.

I beg leave also to state that I have applied for an order, in duplicate form, embracing the delivery of East Florida, and that I shall endeavor to find a suitable opportunity of transmitting it to the commanding officer of the United States troops at Amelia Island, subject to such orders as he may receive from the Department of State, or from your Excellency, taking the original with me in the Hornet.

As Mr. Thompson is fully acquainted with the nature of my mission, I refer your Excellency to him, with the assurance that no exertions on my

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part have been, or shall be, spared to give complete effect to objects of such national importance.

I am, with great respect, sir, &c.

JAMES G. FORBES.

Commissary and Agent of the U. S.

His Ex^{cy} Major General A. JACKSON.

Mr. Forbes to Mr. Adams.

HAVANA, May 9, 1821.

SIR: The message from the Governor, to which I had the honor of referring in my letter to you under date of the 7th instant, was found, on its delivery to me, to be nothing more than a proposal, through the commissary he is about sending, that "the Hornet should convey him to St. Augustine from Pensacola;" to which I could not assent, not only because she had other duties to perform, or of the delay which that mode of transmission of the order would occasion, but because I perceived in it a digression (otherwise immaterial) from the plan agreed upon in a former interview, viz: "that I should be the sole bearer of the orders." I therefore replied that I should wait upon his Excellency; and, considering it opportune, I did this with Captain Read, to explain and to discover, if possible, the chance of getting away. We found him, as on a former occasion, much engaged and fatigued by his personal exertions to procure relief for the inhabitants of St. Antonio, a town just burnt. He was less affable than before; and although he mentioned, as then, that every thing was in a fair train, and that he would give me a duplicate order for East Florida, yet he adverted to the term allowed by the treaty, and said that there were a great many little things to do. After leaving his Excellency, I heard that a petition had been sent to him that day from *Pensacola*, expressive of the attachment of the inhabitants to the Spanish Government; and, upon soliciting lands in this island, stated "that a Judge of the United States, of much influence and talent, had come there with a trunk of British titles to lands in West Florida, with which he had pledged himself to upset all the grants by Spain since the treaty of 1783."

In consequence of this unexpected and very unpleasant duty, and the still greater apprehension of its continuance, I have determined to proceed this morning into the country to see the Intendant, and ascertain whether he has any thing to do with the archives, and obtain an order that the proper officers may attend to their immediate arrangement and delivery.

By the enclosed paper, just received, it will be seen that General Jackson was, on the 27th of April, at New Orleans.

There is in this port the Kangaroo, British brig of war, from surveying the Bahama and Florida keys: a vessel of that nation is generally here—I mean public.

I remain, with great respect, &c.

J. G. FORBES.

Hon. J. Q. ADAMS, *Sec^y of State.*

Mr. Forbes to Mr. Adams.

HAVANA, May 14, 1821.

SIR: Pursuant to the resolution I had formed, and which I had the honor of communicating to you in my letter of the 9th instant, I proceeded on that day to St. Antonio, about twenty-seven miles distant. An excessively hot ride, with bad horses, prevented me from waiting on the Intendant before the next day, when he received me very well, and assured me there would be no difficulty in the way of despatching me; that he would write to the city on the next day for the necessary papers, which would be sent him on the succeeding day, and that immediately after he would return them completed. Agreeably to this calculation, I ought to have the archives from the Intendancy on the 16th instant, and shall call for them on that day accordingly.

On my return to the city I waited upon the Governor, and was told by his interpreter that he was very much engaged, but that my business was progressing. I begged him to acquaint his Excellency of my intention to see him on Monday, (this day.) I went accordingly, and met at the door my colleague, the Spanish commissary, who assured me that every thing was ready, and would be signed (*firmada*) this day, and that we might go to-morrow or the next day. I congratulated him, as well as myself, upon the occasion, but was nevertheless determined to see his Excellency, which I did instantly.

I found him much occupied, and, after some preliminary conversation on the excessive heat, represented to him that we had been here a considerable time, that the hot and unhealthy season was fast advancing, and that I hoped he would despatch us. He replied, "in a few days." I asked, "how many?" and observed, that a vessel was about sailing for the United States in the morning, and that I wished to advise my Government when I was to go. He answered that he would give me notice. The conversation being in French, he said further, "Eh, bien, ecrivez que ce sera dans huit ou dix jours ou quinze." Upon his observing that I appeared surprised at such a distant period, after the various promises, or rather assertions he had made, he added, "J'ai besoin de quelques papiers de dehors, que peuvent venir d'un jour à l'autre; et d'ailleurs, je suis extrêmement pressé de tout côté; un courier partant demain pour l'Espagne, c'est obligé de me lever tous les jours à quatre heures du matin, et travailler jusqu'à minuit: fort heureusement, je jouis d'une bonne santé."

It was difficult for me to conceal my disappointment; yet, if my business required any exertion, sensible of the perplexities of his situation and of his arduous duties, I should, on consideration of them, be more willing to ascribe the further delay to them rather than to any secret influence, which it has not been in my power either to penetrate or detect.

I shall, on the sailing of the packet for Spain, if encouraged by an interview with the Intendant, address a note to his Excellency proposing to

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leave the archives until the return of the Hornet, provided he will despatch me immediately with the orders of the sub-governors upon the Floridas.

I am, sir, with great respect, &c.,

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State.*

Mr. Forbes to Mr. Adams.

HAVANA, May 17, 1822.

SIR: I have the honor of enclosing to you the copy of a letter, dated yesterday, but received this forenoon, from Governor Mahy. The packet for Spain is expected to sail to-morrow, when I shall see his Excellency and the Intendant, and urge with both of them the fulfilment of their promises to despatch me.

I am, with the greatest respect, &c.,

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State.*

Substance of a letter from Governor Mahy, of Havana, to Mr. Forbes, dated

MAY 16, 1821.

That the Governor had observed Mr. Forbes's credentials from the President of the United States, dated at Washington, March 4, 1821, and which comprehend the second article of the Treaty of Friendship and Adjustment of Limits, concluded, 22d February, 1819, between the United States and His Catholic Majesty, in virtue of which the Spanish Minister at Washington had transmitted to the Governor the royal order for the due execution of the stipulations of that treaty; and that the President had authorized Mr. Forbes, as agent and commissary of the United States, to deliver to him (the Governor) the said royal order, to the end that they might, in concert, make arrangements for the delivering up by the Governor, and by such other persons as are in possession, of the archives and documents, as well as the fulfilment of the other stipulations of the said treaty.

With respect to which, and to what is presented in the aforesaid second article, the Governor sends to Mr. Forbes the copy of the royal order communicated to the Government and Captain Generalship of Cuba, under date of the 12th of September, 1783, by the Minister of the Indies of His Catholic Majesty, and by the Count de Aranda, at Versailles, dated the 19th of the same month and year, on which the ratifications of their Majesties, Catholic and Britannic, were exchanged, inserting in that royal order the articles five, seven, and ten, of the definitive treaty of peace, which were formed at Versailles the 3d of September; this being an authentic document found in the archives of Cuba, relative to the property of the Floridas, to which the said second article of the treaty of cession refers.

In the year 1819, there were sent to Havana from West Florida various boxes of papers of the archives of that province, in disorder, and without indexes, the registering (*registrar*) or examining of which will require time.

Respecting East Florida, where there ought to be found all her archives, Governor Mahy would direct that Governor, as intrusted by him with the important commission, to make a formal delivery to Mr. Forbes of that province, as well as of the documents belonging to it. A similar despatch would be addressed to the commandant of West Florida.

Don Pedro de Alva, administrator of the post office in Pensacola, and comptroller of the military hospital, now returning to his post, will be charged with the despatch for the delivery of West Florida, and which despatch he is to put into the hands of that commandant, and afterwards he will proceed with the despatch for the commandant of the eastern province.

Mr. Forbes to Mr. Adams.

HAVANA, May 22, 1821.

SIR: By the letters which I had the honor of addressing to you, under date of the 14th and 17th instant, you will perceive that I had entertained great hopes of being despatched, and had relied upon the influence of the Intendant. Agreeably to that of the 17th, I had made an arrangement with Mr. Layalla, an eminent counsellor and friend of the Intendant, to urge his immediate attention to my earnest solicitations. In the morning he called at the office with that view, and we learned, to our mortification and grief, that the Intendant had received a paralytic stroke, which deprived him of his speech. Thus the hand of Providence had interfered to thwart my most sanguine expectations, as, on the succeeding day, the greatest human efforts were unavailing, and he died, much lamented by all Americans, to whom he was considered an invaluable friend.

I waited on the same day upon the Governor, and received his usual assurance that, as soon as the packet sailed, I should be despatched. The funeral, which was of great pomp and ceremony, I attended, and at which I exchanged a salute with the Governor; it engaged the public attention the whole of yesterday, so that on this day I presented myself to the successor of the Intendant, before whom the secretary placed the *agenda* papers relating to the Floridas. They appeared to be few, and within a loose sheet, (*chemise de bureau.*) He inquired what had passed between the late Intendant and myself; upon hearing which, and upon my urging despatch, he said, "that the matter was new to him, and that he must require to-morrow or next day to investigate it." From thence I proceeded to the Governor's, and was informed that he was out soliciting, from house to house, subscriptions for the relief of the inhabitants of the burnt village of St. Antonio.

I was the more anxious to see his Excellency to-day, as the steam ship, by which this goes, offered a favorable opportunity of addressing you. I returned to the palace. The Governor, who appeared overwhelmed with business, apologised for keeping me so long, showed me some of the large packets made up for Pensacola, said they were

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making copies, and that the day after to-morrow he hoped to give me *free (franqueza)*. I then reminded him of his promise to give me the duplicate order to send to East Florida; he told me that he had a merchantman. I proposed and urged, as most expedient, that I should forward it by an officer of the United States; to which he assented. I have, therefore, put in requisition, by letter to Captain Read, the United States schooner *Nonsuch*, Lieutenant Turner, now here, by which I propose to send the duplicate, under cover, to the commanding officer of the United States troops at Amelia Island, subject to such orders as you or General Jackson may transmit to him. I am, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State.*

Mr. Forbes to Mr. Adams.

HAVANA, May 23, 1821.

SIR: The steamship *Robert Fulton* sailed yesterday for Charleston with the letter of that date, which I had the honor of addressing to you. Since which I have received one from the secretary of the Intendant, soliciting that I should carry to Pensacola ten thousand dollars, and as much to East Florida, to pay the troops; which sums would have been doubled under the late Intendant. I have answered that I would cheerfully do this if they would ship them without delay, say in equal sums, in the *Hornet* and *Nonsuch*. Captain Read is indisposed—I hope not seriously.

I am, with the greatest respect, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State.*

Mr. Forbes to Mr. Adams.

HAVANA, May 28, 1821.

SIR: From the convention with the Governor, which I had the honor of detailing to you in my letter of the 23d instant, it was natural to suppose that on the 24th I would have been despatched.

I waited upon his Excellency to remind him of his promise, but he appeared to have forgotten it, and again mentioned press of business, and the term of "*pocos dias*," which became more familiar than reconcilable to me. He had just received a letter from the Governor of Pensacola, which he showed me, stating an inquiry on the part of General Jackson as to the delivery of the province. The sub-governor, in forwarding the General's letter and his answer, asked for orders, which his Excellency was about sending, and offered to take any letters from me; but I replied that the best communication I could make to him would be in person. He remarked that he thought our General "*avait la tête montée*."

I addressed the Governor the letter, a copy of which is herewith, marked B, to which I received, on the 26th, the answer, copy also, marked C; upon the receipt of which, I called upon his Excellency, and was met by an affable apology for

the unavoidable detention, assuring me that, as Saturday was general post day, the day after Sunday, he would positively despatch me on the succeeding day, (the present.) I could not but acquiesce. However, after learning in conference, that there would be no archives ready, I immediately, on retiring, addressed him the letter, of which a copy is enclosed, marked D, to which I have not yet received an answer in writing; but, on calling at the Governor's, was told it had been written, together with a copy of the orders to the sub-governors of the Floridas, but, on a revision, there was some expression which his Excellency thought proper to alter, and on which account it could not be handed to me before to-morrow, when I should *positively* be despatched. I hope, therefore, that, the money being on board, my next will be from the office, and put in charge of Captain Turner, of the *Nonsuch*, who will forward it immediately to the United States, whither he is proceeding, after landing the Spanish Commissary and specie at St. Augustine, and after delivering my despatch to the commanding officer of the United States troops at Amelia.

I am, with the greatest respect, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS, *Sec'y of State.*

A.

The Captain General of Cuba to Mr. Forbes.

HAVANA, May 26, 1821.

SIR: I acknowledge the receipt of your official letter of the 24th current, in which, among various reflections which it contains, I am requested, as soon as possible, to complete the delivery of the Floridas. You can sufficiently testify my desires for the conclusion of this business, and in my last conference I showed that it would be in a few days after. Considering that the stipulation of the treaty grants six months for its completion, and three have already elapsed, as you mention, it does not depend upon delays on the part of this Captaincy General; and, desirous to give further proofs of the good intention of this Government in fulfilling the said royal order, I have nominated the Auditor of War of the province of East Florida, who is at present there with his license, and ought to be present at the delivery, to convey the proper order to the Governor; in which understanding I should think that he might be conveyed in the vessel which you tell me would be destined for that service. Thus I have answered your said official letter.

I remain, with the highest consideration, and pray God to preserve you many years:

NICHOLAS MAHY.

B.

Mr. Forbes to Governor Mahy.

HAVANA, May 24, 1821.

MOST EXCELLENT SIR: I have had the honor of receiving your Excellency's letter of the 16th instant, acknowledging the receipt by my hands of the royal order for the delivery of the Floridas

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to the Government of the United States, advising me that measures are taking for the delivery of the archives, and for the further execution of the treaty between the two Governments, and enclosing to me copies of the fifth, seventh, and tenth articles of the definitive treaty of peace between Spain and Great Britain in 1783.

In the first interview, your Excellency was pleased to manifest a readiness to despatch me with the requisite documents in a few days, or as soon as the convoy for Spain had sailed, which was immediately communicated in corresponding terms to the President of the United States, who has relied, accordingly, upon its execution. Since then, a period of near five weeks has elapsed, during which every day has appeared to have increased your Excellency's avocations.

While your Excellency has been incessantly engaged in performing the arduous duties of his [your] important and highly responsible station, it has fallen to my humble lot to be only the idle spectator of the ravages of the climate, and, in contemplating their secret and rapid progress, to flatter myself with the hope of embarking so as to rescue the officers and crews of the ships from their fatal effects.

As three months of a favorable season have passed away in preliminary measures, and as it appears uncertain when the archives here of the Floridas can be delivered over to me, I crave the reference again of your Excellency to my last despatch, confirming the various reasons offered in conference for my early departure, and therefore propose that if any further researches should be necessary for the discovery of the said archives, they might be delivered when more convenient to the Spanish Government; that I should be allowed to proceed immediately to West Florida with the commissary appointed to carry the final order to the sub-governor there; and, lastly, that a duplicate order be given at once, as agreed upon, to the Governor of East Florida, for the delivery of that province to the constituted authorities of the United States, together with the archives which are declared to be on the spot: which last order I will, with your Excellency's permission, despatch immediately by a public officer of the United States.

I am, with sentiments of the highest consideration, &c.

JAMES G. FORBES,

Commissary and Agent of the U. S.

His Exc'y Don NICHOLAS MAHY.

C.

Don Juan Nepom. de Arocha to Mr. Forbes.

MAY 23, 1821.

SIR: The Intendant *ad interim* commands me to ask you whether or not it will be inconvenient to transport on board the vessel of your nation twenty thousand dollars, which he wishes to remit for the disposal of the Governors of the two Floridas—ten thousand to Pensacola, and ten thousand to St. Augustine—in the supposition that the ship will go to either of those ports.

This quantity being precisely destined for the assistance of the troops of both garrisons, and for

the purpose of avoiding particular agreements when the completion of the treaty between both Powers takes effect, the said Intendant *ad interim* has no doubt that you will have the goodness to comply with this service in the spirit of harmony and consequent friendship.

I have the honor to express my hope of your answer, and therefore to offer myself to your disposal, as your most obedient, humble servant,

JUAN NEPOM. DE AROCHA.

D.

Mr. Forbes to Governor Mahy.

HAVANA, May 26, 1821.

MOST EXCELLENT SIR: I had the honor of receiving your Excellency's letter of this date, informing me of the appointment of the Auditor of War of the province of East Florida to become the bearer of your Excellency's orders on the sub-governors of that province for its delivery, in form, to the constituted authorities of the United States, and renewing to me your Excellency's disposition to despatch me in a few days.

The accidental arrival here of the United States schooner Nonsuch enables me to meet the views of the Spanish Government, by putting her in requisition for the purpose of conveying some specie of the Intendant, as well as of conveying said officer; she therefore awaits your Excellency's despatches.

I beg leave to know if I understood your Excellency to say, in conference to-day, that the archives of West Florida, which are in the public offices here, are of a character involving importance only to Spain; that, in the further examination of them, such as interest the Government of the United States should be set apart and transmitted to our Government.

It would be agreeable to me, also, to have from your Excellency copies of the orders transmitted by him to the sub-governors of the Floridas, touching their delivery to the United States.

I have the honor to be, &c.

JAMES G. FORBES.

His Exc'y Governor MAHY, &c.

E.

Mr. Forbes to Señor Juan Nepom. de Arocha.

HAVANA, May 23, 1821.

SIR: I had the honor of receiving your letter of this date, desiring, on the part of the Intendant, that the ship of war of the United States should convey to the Floridas twenty thousand dollars on account of the Spanish Government.

Please to assure the Intendant that it affords me much pleasure to accord with his wishes, and that, in the same spirit of accommodation and friendly intercourse which ought, and I hope may always, subsist between the American and Spanish Governments, the money shall be taken on board the Hornet for Pensacola, and the Nonsuch for St. Augustine; but my duty prescribes that no further delay can be the consequence. I have, &c.

JAMES G. FORBES,

Commissary and Agent of the U. S.

*Spain—Delivery of the Floridas.**Mr. Forbes to Mr. Adams.*

HORNET, OFF HAVANA, May 30, 1821.

SIR: Since I had the honor of addressing you, on the 28th instant, I have received an answer from the Governor to my letter of that date, enclosing copies of his orders to the sub-governors of the Floridas, and declaring that the archives should be transmitted to the Government of the United States as soon as they were selected.

Immediately on reading the orders just referred to, I perceived that the sub-governors were directed to deliver the provinces to me; I therefore waited upon his Excellency, and requested that he would insert "to the constituted authorities of the United States;" to which he readily assented, but said, as the despatches were written, it would require a particular order, which he issued, and of which copies are herewith, together with those written under date of the 5th instant.

The Governor, who was exceedingly polite, invited Captains Read and Turner and myself to dinner, at which I alone attended; and after which he gave the new instructions in relation to the delivery. He asked if I was now satisfied. I mentioned a further wish that he had been more pointed to the Governors as to the period of evacuation, and urged the season as one which would expose the Spanish troops to much delay and inconvenience. He said he knew, from General Jackson's character, that he was impatient, but that the treaty was of considerable importance, now happily and formally concluded; and he hoped that all regard would be paid to its happy conclusion; that the Governors would use all due diligence.

I have the satisfaction of saying, at last, that I embarked this morning with the Spanish commissary, but that the one for St. Augustine, just appointed, will not be able to proceed in the Nonsuch until the day after to-morrow. I have preferred leaving him, to a moment's unnecessary delay, on my part, for the delivery of West Florida.

I have addressed a copy of the orders of which he is the bearer to Colonel Bankhead, or commanding officer at Amelia, subject, as before mentioned, to such directions as he should receive from the Department, or from General Jackson, as Governor of the Territory.

It has been a source of regret and vexation to me to have met with this unforeseen detention, but I hope and trust that you will have perceived, in the course of my agency, that every exertion has been used, and that the delay may be attributed more to a tardiness inherent in those with whom I have had to do, than to any political or commercial advantage expected to be derived from it by speculation. The authorities here consider it a *prompt despatch!*

I request your attention to my draft of this date in favor of Messrs. Gutierrez & Morland for \$350, chargeable to my account.

I am, with the greatest respect, &c.

JAMES G. FORBES.

Hon. J. Q. ADAMS,

*Secretary of State.**Order of the Governor General of Cuba for the delivery of the Floridas.*

HAVANA, May 5, 1821.

The time having arrived for beginning to take the necessary measures for the evacuation of West Florida, at present under your command, to make formal delivery of it to the authorized commissary of the Government of the United States, citizen James G. Forbes, within the space of six months, or sooner if possible, counting from the 22d of February last, the date of the exchange of the ratifications of the treaty formed between the two Powers, I have resolved to charge you with the execution of this important commission with the brevity and order which it demands, and for the good event of which I forwarded to you some preparatory instructions, which ought necessarily to have served to dispose each branch to have been arranged as an object so interesting demands. You will have, therefore, to agree with the commissary of the Government of the United States on the mode of transporting the troops, munitions, effects, &c., according to the articles of the treaty, a copy of which I enclose, and which will give information on the subject. The detachments of each corps will be reunited under the command of the chief, or its senior officer, taking all the precautions which you think convenient for maintaining good order in this delicate circumstance. At the moment of giving possession of that country, and of quitting it, I recommend to you to do what you can for apportioning to the families which may wish to be transferred to this island all the means which may be in your power, and the necessary protection which I myself have solicited from the said commissary in his kindness, manifesting on my part how agreeable it would be, as they come to live amongst our people.

May God preserve you many years.

NICOLAS MAHY.

To the COMMANDER *ad interim* West Florida.*Additional order for the delivery of West Florida.*

HAVANA, May 27, 1821.

Although it is expressed in the order for the delivery of the province under your command to Don James G. Forbes, the commissioned agent of the United States to that effect, it ought also to be understood that, in case of any accident happening to that gentleman, (which God forbid,) it shall be delivered to the authorities of the said United States, legally constituted, who may present themselves to you for the completing of the afore-cited order.

God preserve you many years.

NICOLAS MAHY.

Additional order for East Florida, (the original, or first, being the same for both provinces.)

HAVANA, May 29, 1821.

In the order which I addressed to you for the delivery of the province under your command, it is not expressed to whom it should be given; it

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will be understood that it shall be the authorities of the United States, legally constituted, who may present themselves to you for its completion.

God preserve you many years.

NICHOLAS MAHY.

To the GOVERNOR of East Florida.

Colonel Butler to the Secretary of State.

ST. AUGUSTINE, EAST FLORIDA,
July 13, 1821.

SIR: I have handed over to Major Cross, for your examination, a book containing copies of the official correspondence which resulted in the reception and occupancy of this province.

You will likewise receive, herewith, the official document of the interchange of authority, which was formally executed at the period when the American and Spanish flags were flying on the standard.

You have enclosed a communication and document accompanied, from the Spanish Commissioner, which I have informed him has been referred to the American Government for decision, on the subject of several pieces of artillery at Amelia Island.

The archives relating to private property are so numerous that it would be an endless task to have them transcribed; and I therefore claimed them as they were, and I deemed it of great importance to particularize, as you will find from my letter of the 3d instant, and numbered 26, owing to my receiving information that a large portion of these documents were packed for transportation. This letter had the effect of keeping all the documents here until your decision is made with the Spanish authorities.

The documents are forwarded by Major Cross, on the part of the Spanish Commissioner, to the Minister at Washington, from which you will be enabled to settle the points left open with them speedily.

I shall be gratified to receive a communication from you, if my services in this instance have corresponded with the interests of my country.

As I have not been informed of what allowance will be authorized as a compensation for the duty which I have performed, will you be kind enough to give me the necessary information on this subject, directed to Pensacola?

I have the honor to be, &c.

ROBERT BUTLER, U. S. Com'r.

Hon. J. Q. ADAMS, Sec'y of State.

NOTE.—I am just informed by the Spanish Commissioner that his documents will not be sent by Major Cross, but will be transmitted immediately by another conveyance.

R. B.

Act of Cession of East Florida.

In the place of St. Augustine, and on the tenth day of July, eighteen hundred and twenty-one, Don Jose Coppinger, colonel of the national armies, and commissioner appointed by his Excellency the Captain General of the island of Cuba, to make

a formal delivery of the said place and province of East Florida to the Government of the United States of America, by virtue of the treaty of cession concluded at Washington, on the 22d of February, eighteen hundred and nineteen, and the royal schedule of delivery of the twenty-fourth of October of the last year, annexed to the documents mentioned in the certificate, that form a heading to these instruments: in testimony thereof, and the adjutant general of the southern division of said States, Colonel Don Robert Butler, duly authorized by the aforesaid Government to receive the same: We having had several conferences, in order to carry into effect our respective commissions, as will appear by our official communications; and having received by the latter the documents, inventories, and plans, appertaining to the property and sovereignty of the Spanish nation held in the province, and in its adjacent island depending thereon, with the sites, public squares, vacant lands, public edifices, fortifications, and other works, not being private property, and the same having been preceded by the arrangements and formalities that, for the greater solemnity of the important fact, they have judged proper, there has been verified, at four o'clock on the evening of this day, the complete and personal delivery of the fortifications, and all else of this aforesaid province, to the commissioner, officers, and troops of the United States, and, in consequence thereof, having embarked for the Havana the military and civil officers and Spanish troops in the American transports provided for this purpose, the Spanish authorities having this moment ceased the exercise of their functions, and those appointed by the American Government having begun theirs, duly noting that we have transmitted to our Governments the doubts occurring whether the artillery ought to be comprehended in the fortifications; and if the public archives relating to private property ought to remain and be delivered to the American Government by virtue of the cession; and that there remain in the fortifications, until the aforesaid resolution is made, the artillery, munitions, and implements specified in a particular inventory, awaiting on these points, and the others appearing in question in our correspondence, the superior decision of our respective Governments, and which is to have, whatever may be the result, the most religious compliance at any time that it may arrive, and which the possession that at present appears given shall not serve as an obstacle. In testimony of which, and that this may at all times serve as an expressive and formal receipt in this act, we, the subscribing commissioners, sign four instruments of the same tenor, in the English and Spanish languages, at the above-mentioned place, and said day, month, and year.

ROBERT BUTLER.
JOSE COPPINGER.

Colonel Butler to the Secretary of State.

ST. AUGUSTINE, June 20, 1821.

SIR: I have the honor to report to you that the understanding which at present exists between the

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Governor who is the commissioner on the part of Spain, and myself, is, that the exchange of flags will be effected on or about the 1st of July, and in a manner which I trust will be deemed satisfactory by my Government.

I shall avail myself of the earliest opportunity after that event to give you in detail the whole of the proceedings on that subject.

I was induced to believe, from information received some time since, that the provisions destined to subsist the Spanish forces to the Havana had arrived at Amelia Island, and I therefore gave an order for their delivery to the officer commanding the detachment destined to occupy the fortress at this place. A partial supply only was delivered, and that out of the supply for the troops at that place. I have therefore despatched a transport to Amelia to procure the supply necessary, and, if not in store, to purchase such as may be wanting. I am without any advices from the Commissary General's department on this subject.

I have the honor to be, &c.

ROBERT BUTLER.

Hon. J. Q. ADAMS, *Sec'y of State.*

The Secretary of State to Major General Andrew Jackson.

DEPARTMENT OF STATE,
Washington, March 12, 1821.

SIR: By direction of the President of the United States, I have the honor of transmitting to you three commissions:

1. As commissioner to receive possession of the provinces of East and West Florida, conformably to the treaty between the United States and Spain; concluded on the 22d of February, 1819.

2. As Governor of the whole territories of which possession is to be thus taken.

3. As commissioner vested with special and extraordinary powers, conformably to the stipulations of the treaty, and to the act of Congress for carrying the same into execution; copies of both of which are also among the enclosures with this letter.

Together with the Spanish ratification of the treaty, there was transmitted to the Spanish Minister at this place a royal order to the Captain General and Governor of the island of Cuba for delivering possession of the provinces of East and West Florida, according to the stipulations of the second article of the treaty.

Colonel James G. Forbes has been appointed by the President agent and commissary to deliver this royal order to the Governor of Cuba, to concert and arrange with him the execution of it, and to receive any documents or archives which may be at the Havana, and which are stipulated to be delivered by this article. A copy of his instructions is herewith enclosed, by which you will perceive that he is to deliver over to you all such documents or archives as he may receive at the Havana. It is desirable that those relating to each of the two provinces should be kept distinct from each other, and that this Government

should be informed generally of their character and quantity.

Colonel Forbes is to take passage at New York in the United States sloop of war *Hornet*, Captain Read; and, on arriving at Pensacola, is to give you immediate notice, that you may repair thither to receive possession of that place. The *Hornet* is to remain there to escort the transports in which the Spanish officers and troops and their baggage are to be conveyed to the Havana.

The Spanish Minister has expressed a strong wish that no troops of the United States may be introduced into Pensacola or St. Augustine until after the evacuation of those of Spain. The object of this request being to avoid any possible unpleasant altercations between the soldiers of the two nations, the President thinks it reasonable to comply with it, unless you should be of opinion that it will be attended with inconvenience. In that event, he relies that you will take every measure of precaution which may be necessary to guard against any such collisions between the soldiers; and he trusts with confidence that, in every arrangement for the evacuation, the utmost delicacy will be observed to avoid every thing which might tend to wound the feelings of any of the Spanish officers, soldiers, or subjects, who are to remove.

It is the President's desire that you should appoint General Gaines, or such other officer as you may deem expedient, to receive possession of St. Augustine; and that the same instructions should be applied to the execution of that service. The United States brig *Enterprise* or schooner *Porpoise* will be ordered to proceed to that place to escort the transports which are to convey the Spanish officers and troops thence to the Havana. The care of providing the transports at both places is referred to you. The number of troops at either place is not known, but supposed to amount to about five hundred men at each. The stipulation is understood to include civil as well as military officers, and provisions as well as passage.

Instructions will be given by the Secretary of War to the quartermasters and commissaries to furnish to your orders provisions and transports for the conveyance of the Spanish officers and troops. It is expected they will be supplied at New Orleans and Mobile for those to embark within the Gulf, and at Savannah and Charleston for those going from St. Augustine.

A copy and translation of the royal order to the Governor of Cuba, for delivering the possession of the provinces, is among the enclosures herewith. You will observe that it includes expressly the islands appurtenant to them. It will be proper that attention should be paid to taking possession of all these islands, but it may not be necessary that a formal delivery of them in every case should be made.

On receiving from the Governors of West and of East Florida possession of those respective provinces, it will be proper to exchange certificates of the time and mode of the transaction. Orders for the delivery of any military posts within the provinces will be expected, and they will be occu-

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pied by detachments of our troops, as you may deem expedient.

As soon as the possession shall be transferred, you will, in pursuance of your authority over the ceded territories, issue proclamations announcing the fact. A form adapted from that which was issued on the first occupation of Louisiana is herewith enclosed, to be modified as the circumstances, in your opinion, may require.

The powers vested in you by the enclosed commissions are also conformable to those which were intrusted to the Governor of Louisiana under an act of Congress of similar import. The President is satisfied that they will be exercised by you with a due regard as well to the privileges and usages of the inhabitants under the Government to which they have been subject, as to the personal and social rights to which they will be entitled by the stipulations of the treaty, and as associates to the union of these States. The money paid into the Spanish treasury before the delivery of possession, and whatever may be due thereto at that date, is to be considered as the property of Spain. Payments and debts subsequent to that date will belong, of course, to the United States.

The laws of the United States relating to the revenue and its collection, and those relating to the introduction of persons of color, being extended by the act of Congress to the territory, the execution of them will be superintended by officers to be appointed for the several collection districts to be established by the President conformably to the law.

Your compensation as Governor will be at the rate of five thousand dollars a year. As commissioner for receiving possession of the provinces, such reasonable expenses as may be incurred will be allowed. Whenever your military command ceases, your salary as Governor will commence.

In the taking possession of St. Augustine and East Florida, similar proceedings to those relative to the occupation of West Florida will be proper. Both provinces being placed under your direction, the proclamation to be issued there will be in your name; and General Gaines, or such other officer as you may appoint, will be instructed to consider himself, for all the purposes of the Government, subject to your orders.

At the ensuing session of Congress, it is presumed one of the earliest objects of attention to that body will be to make further provision for the government of these Territories. The President wishes you, in the interval, to collect and communicate to this Department any information relating to the country and its inhabitants, which may be useful to the exercise of the legislative authority of the Union concerning them.

For the expenses incident to the services herewith required, you will draw upon this Department. Strict economy is to be observed in incurring them; and I have urgently to request the transmission, as early as possible, of all the accounts resulting from them, with the vouchers necessary for their settlement at the Treasury.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

17th CON. 1st SESS.—61

P. S. The third commission, being reserved by the President for consideration, is not enclosed.

Commission to General Jackson to receive possession of the Floridas.

JAMES MONROE, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that, reposing special trust and confidence in the patriotism and abilities of Major General Andrew Jackson, of Tennessee, I have appointed him commissioner of the United States, with full power and authority to him to take possession of, and occupy, the territories ceded by Spain to the United States by the treaty concluded at Washington on the twenty-second day of February, in the year one thousand eight hundred and nineteen, and for that purpose to repair to the said territories, and there to execute and perform all such acts and things touching the premises as may be necessary for fulfilling his appointment, conformably to the said treaty and the laws of the United States: and I do, moreover, authorize the said Andrew Jackson to appoint any person or persons in his stead to receive possession of any part of the said ceded territories, according to the stipulations of the said treaty.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, at the City of Washington, the 10th day of March, A. D. 1821, and of the Independence of the United States of America the forty-fifth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,
Secretary of State.

Commission to General Jackson as Governor of the Floridas.

JAMES MONROE, President of the United States of America, to all to whom these presents shall come, greeting:

Whereas, the Congress of the United States, by an act passed on the third day of the present month, did provide that, until the end of the first session of the next Congress, unless provision be sooner made for the temporary government of the territories of East and West Florida, ceded by Spain to the United States by the treaty between the said parties, concluded at Washington, on the twenty-second day of February, one thousand eight hundred and nineteen, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion: Now, know ye, that, reposing special trust and confidence in the integrity, patriotism, and abilities of Major General Andrew Jackson, I do, in virtue of

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the above-recited act, appoint him to exercise, within the said ceded territories, under such limitations as have been, or may hereafter be, prescribed to him by my instructions, and by law, all the powers and authorities heretofore exercised by the Governor and Captain General and Intendant of Cuba, and by the Governors of East and West Florida, within the said provinces, respectively, and do authorize and empower him, the said Andrew Jackson, to execute and fulfil the duties of this present appointment according to law, and to have and to hold the same, with all its powers and privileges, until the end of the next session of Congress, unless provision be sooner made for the temporary government of the said territories so ceded by Spain to the United States: *Provided, however,* (and it is the true intent and meaning of these presents,) That the said Andrew Jackson, or any person acting under him, or in the said territories, shall have no power or authority to lay or collect any new or additional taxes, or to grant or confirm to any person or persons, whomsoever, any title or claims to lands within the same.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given [L. s.] under my hand, at the city of Washington, the 10th day of March, A. D. 1821, and of the Independence of the United States of America the forty-fifth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,
Secretary of State.

Special Commission to Major General Andrew Jackson, for carrying into effect the stipulations of the Treaty.

JAMES MONROE, President of the United States of America, to Andrew Jackson, greeting:

Whereas, by an act of Congress passed on the third day of the present month, entitled "An act for carrying into execution the Treaty between the United States and Spain, concluded at Washington, on the twenty-second day of February, one thousand eight hundred and nineteen," it is provided that, until the end of the first session of the next Congress, unless provision be sooner made for the temporary government of the territories ceded by Spain to the United States by the treaty concluded at Washington, on the twenty-second day of February, one thousand eight hundred and nineteen, between the two nations, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion: And whereas, on the tenth day of the present month, I did, by letters-patent, under the seal of the United States, in pursuance of the powers vested in me as aforesaid, appoint you, the said

Andrew Jackson, to exercise, under certain limitations, within the said ceded territories, all the powers and authorities heretofore exercised by the Governor and Captain General and by the Intendant of Cuba, and by the Governors of East and West Florida, within the said provinces, respectively, with the clauses and conditions in the said letters patent expressed: And whereas it appears to me expedient that you should be vested with the other powers hereinafter specified: Therefore, be it known that, in virtue of the above recited act of Congress, I do, by these presents, appoint and authorize you, the said Andrew Jackson, to administer the government, with the existing authorities, in the best manner in your power, for the present, and to report without delay the actual state, with such alterations as you may think advisable, that further instructions may be given respecting the same; and I do, moreover, authorize you to suspend any officer or officers in the said territories which the public good may seem to you to require, with the exception always of such as are or may be appointed by the President of the United States, making a report to this Government of your proceedings therein. These letters patent are to continue in force until the end of the first session of the next Congress, unless provision be sooner made for the temporary government of the said territories so as aforesaid ceded by Spain to the United States, and unless it should be sooner revoked by the President of the United States.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given [L. s.] under my hand, at the City of Washington, the 20th day of March, A. D. 1821, and of the Independence of the United States of America the forty-fifth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,
Secretary of State.

Form of Proclamation.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and of the Intendant of the Island of Cuba over the said provinces, and of the Governors of said provinces, respectively.

Whereas, by the treaty concluded between the United States and Spain, on the 22d day of February, 1819, and duly ratified, the provinces of the Floridas were ceded by Spain to the United States, and the possession of the said provinces is now in the United States:

And whereas the Congress of the United States, on the 3d day of March, in the present year, did enact that, until the end of the first session of the seventeenth Congress, unless provision for the temporary government of said provinces be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing Government of the said provinces shall be

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vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the President of the United States has, by his commission, bearing date the 20th day of said March, invested me with all the powers, and charged me with the several duties heretofore held and exercised by the Captain General, Intendant, and Governors, aforesaid:

I have therefore thought fit to issue this my proclamation, making known the premises, and to declare that the government heretofore exercised over the said provinces, under the authority of Spain, has ceased, and that that of the United States of America is established over the same; that the inhabitants thereof will be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States; that, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess; that all laws and municipal regulations which were in existence at the cessation of the late Government remain in full force; and all civil officers charged with their execution, except those whose powers have been specially vested in me, and except, also, such officers as have been intrusted with the collection of the revenue, are continued in their functions during the pleasure of the Governor for the time being, or until provision shall otherwise be made.

And I do hereby exhort and enjoin all the inhabitants and other persons within the said provinces to be faithful and true in their allegiance to the United States, and obedient to the laws and authorities of the same, under full assurance that their just rights will be under the guardianship of the United States, and will be maintained from all force and violence from without or within.

In testimony whereof, I have hereunto set my hand. Given, &c.

From the Secretary of State to Major General Andrew Jackson, at Nashville.

DEPARTMENT OF STATE,
Washington, March 20, 1821.

SIR: I have the honor to transmit the third commission referred to in the instructions of this office to you of the 12th instant; and to be, with respect, your obedient and humble servant,

JOHN Q. ADAMS.

From the Secretary of State to Major General Andrew Jackson, Nashville.

DEPARTMENT OF STATE,
Washington, March 23, 1821.

SIR: By the second article of the Florida Treaty, it is stipulated that, with the Territories of East and West Florida, the fortifications within the same are ceded and to be delivered to the

United States; but no express mention is made of the cannon belonging to them.

By the seventh article of the same treaty, it is provided that the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana; but no mention is made of the transportation of cannon, nor is there any express engagement on the part of the United States to furnish provisions to the Spanish officers and troops on the passage.

It is the opinion of the President that, by a fair and just construction of the treaty, the cannon belonging to the fortifications are to be considered as appendages to them, included in the cession, and are, therefore to be left with them.

On the same principle, he is of opinion that, with the transports and escorts to convey the Spanish officers and troops and their baggage, the provisions necessary for the passage are also to be furnished at the expense of the United States, although not specially mentioned in the treaty, and orders have accordingly been given for the supply of provisions.

It is, however, possible that the Spanish Governors of East and West Florida may, upon a different construction of the treaty, claim to carry away the cannon from the fortifications, because they are not expressly named in the article.

You will, in that case, claim that they should be left with the fortifications, and insist that, upon the principle of the other construction, the United States are not bound to furnish provisions for the passage of the officers and troops. You will state that the supply has been ordered in the confidence that the benefit of the same liberal construction of the treaty will operate in favor of the United States; and that, if it be not extended to them, they will have a just claim to be reimbursed for the expense of supplying the provisions.

You will add that, as there is no engagement on their part, express or implied, to furnish the means of transporting the cannon, they have made, and can make, no provision for that purpose.

Should the Spanish Governors allege that their orders are express for having the cannon carried away, you will leave it to them to make provision for their transportation, and report forthwith the facts to this Department.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

From the Secretary of State to Major General Andrew Jackson, Governor of East and West Florida.

DEPARTMENT OF STATE,
Washington, May 22, 1821.

SIR: I have the honor, by direction of the President of the United States, of informing you that he has established within the Territories of East and West Florida three districts for the collection of the revenue, namely, at Pensacola, St. Marks, and St. Augustine. He has at the same time thought proper to appoint two territorial secreta-

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ries and two judges, one of each to reside at Pensacola, and the other at St. Augustine; the revenue district of St. Mark's to be included within the judicial district of Pensacola. He has thought the appointment of one marshal sufficient for the whole territory, authorizing him to appoint a deputy either for St. Augustine or Pensacola, while he shall reside himself at the other of those places. I subjoin hereto a list of the several persons appointed to these offices.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

[List of officers referred to in the above letter.]

Eligius Fromentin, of Louisiana, to be Judge of the United States for West Florida, and for that part of East Florida which lies westward of the Cape; to reside at Pensacola.

Alexander Anderson, of Tennessee, to be Attorney of the United States for West Florida, and for that part of East Florida which lies westward of the Cape; to reside at Pensacola.

William P. Duval, of Kentucky, to be Judge of the United States for East Florida, with the exception of that part which lies westward of the Cape; to reside at St. Augustine.

John G. Bird, of Georgia, to be Attorney of the United States for East Florida, with the exception of that part which lies westward of the Cape; to reside at St. Augustine.

James Grant Forbes, of New York, to be Marshal of the United States in and for East and West Florida, with authority to appoint a deputy either for St. Augustine or Pensacola, while he shall himself reside at the other of those places.

George Walton, of Georgia, to be Secretary in and for West Florida, and for that part of East Florida which lies westward of the Cape.

William G. D. Worthington, of Maryland, to be Secretary in and for East Florida, with the exception of that part which lies westward of the Cape; to reside at St. Augustine.

Mark Harden, of North Carolina, Collector of the Customs at St. Mark's.

John Rodman, of New York, Collector of the Customs, and Richard S. Hackley, of Virginia, Surveyor and Inspector of the Revenue at St. Augustine.

Alexander Scott, of the District of Columbia, Collector of the Customs; William S. Smith, of the District of Columbia, Naval Officer; and Charles Jenkins, of South Carolina, Surveyor and Inspector of the Revenue at Pensacola.

The Secretary of State to Major General Andrew Jackson, Governor of East and West Florida.

DEPARTMENT OF STATE,
Washington, May 23, 1821.

SIR: I have had the honor of receiving your letters of the 2d, 10th, and 12th of April, from Nashville. The request for instructions relating to the Seminole Indians, contained in the first of them, having been referred by the President to the Secretary of War, has been answered through that department.

The list of officers appointed by the President within the territory, which is now transmitted to you, consists altogether of citizens of the United States, the objects of their respective functions being the introduction and establishment of the laws of the Union in the country.

It is not, however, the intention of the President that, in the distribution of official situations, the natives or inhabitants of the country itself should be overlooked. The offices, the duties of which relate to the civil and internal administration of the territory, will be those for which the qualifications of the people of the country will be peculiarly appropriate; and, leaving the distribution of them entirely to your discretion, he is confident it will be exercised with a just regard to the interest and feelings of the people of Florida, and in a manner which may tend at once to their satisfaction, and to render their change of condition as acceptable to their inclinations as it is hoped it will be propitious to their welfare.

I am, with much respect, &c.

JOHN Q. ADAMS.

The Secretary of State to Andrew Jackson, Esq., Governor of Florida.

DEPARTMENT OF STATE,
Washington, June 27, 1821.

SIR: I have had the honor of receiving your letters of the 24th of April, 1st, 7th, 19th, 23d, and 30th of May, with their enclosures.

The conduct of the Governor and Captain General of the island of Cuba in delaying, without any apparent satisfactory reason, the delivery of the orders to the Governors of East and West Florida for the evacuation of those provinces by the officers and troops of Spain, and in evading the delivery of all of the archives in his possession, and which, by a stipulation of the treaty, were to be given up, appears to have been very exceptionable.

The President has been disposed to make every allowance for the dilatory character of all transactions habitual to the officers of the Spanish Government. On receiving your letter of 19th May, he had thought it would be necessary to take measures, on a presumption that the unwarrantable delays of the Governor of Cuba would be still continued, which, under other circumstances, it would be very desirable to avoid. While these measures, however, were under consideration, intelligence was received from Colonel Forbes that he had at length received the orders for the delivery of the two provinces, and, immediately afterwards, that he had actually sailed from the Havana, on the 30th ultimo, for Pensacola. As the order to the Governor of St. Augustine had been despatched on the same day, and that order was received by him on the 7th instant, we are in daily expectation of receiving the information that that place has been delivered up to Colonel Butler, and that the Spanish officers and troops there have embarked for the Havana. The tenor of your correspondence with the Governor of Pensacola, as well as the character heretofore known of Gov-

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ernor Callava, have led to the hope and expectation that he will, on receiving the order of evacuation, manifest all the alacrity for carrying the treaty into execution which has been professed in his letters. It was therefore concluded here that it would be most advisable to take no step founded on the supposition that unnecessary delays will be still experienced in the evacuation of the Floridas, even after the orders for their evacuation shall have been received by the Governors of the respective provinces.

Your letters of the 23d and 30th ultimo have been forwarded to the President, who is in London. I shall inform you as soon as possible of his directions on your suggestion of a wish to be furnished with a check on the Branch Bank at New Orleans.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

The Secretary of State to Andrew Jackson, Esq., Governor of the Floridas.

DEPARTMENT OF STATE,
Washington, August 20, 1821.

SIR: I have had the honor of receiving your letters of the 16th, 17th, and 18th ultimo, with their enclosures. They were immediately transmitted to the President, who is at the Shannondale Springs.

As it will doubtless be one of the earliest objects of attention to Congress, at their ensuing session, to prepare a more permanent system of government for the Territories of Florida, I would solicit communications from you, as early and as ample as you can make them, of information which may serve to enlighten the inquiries upon which it may be expected that this legislation will be founded.

A reference to the laws of Congress which were from time to time enacted for the government of the Louisiana Territories, may serve to point out some of the particulars upon which information will be most desirable. In this view, the following acts are presented to your attention:

1. An act erecting Louisiana into two Territories, and providing for the temporary government thereof. March 26, 1804. *Laws of the United States*, vol. 3, p. 603.

2. An act further providing for the government of the Territory of Orleans, March 2, 1805. Page 648.

3. An act further providing for the government of the district of Louisiana. Page 658. March 3, 1805.

4. An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the district of Louisiana. Page 652. March 2, 1805.

5. An act extending the powers of the Surveyor General to the Territory of Louisiana, and for other purposes. Vol. 4, p. 6. February 28, 1806.

6. An act supplementary to an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and

the district of Louisiana." Page 50. April 21, 1806.

7. An act respecting claims to land in the Territories of Orleans and Louisiana. Page 111. March 3, 1807.

8. An act providing for the final adjustment of claims to land, and for the sale of the public lands in the Territories of Orleans and Louisiana. Vol. 4, p. 322. February 15, 1811.

9. An act to enable the people of the Territory of Orleans to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes. Page 328. February 20, 1811.

10. An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territories of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February 16, 1811. Page 356. March 3, 1811.

11. An act for ascertaining the titles and claims to lands in that part of Louisiana which lies east of the river Mississippi and island of New Orleans: April 25, 1812.

There may be some others, but my reference to these is merely to suggest the nature of part of the information which it is probable may be desired by Congress in relation to the Floridas, and which, it is hoped, your position will enable you to furnish. I am, with great respect, &c.

JOHN QUINCY ADAMS.

Governor Jackson to the Secretary of State.

NASHVILLE, April 2, 1821.

SIR: I have the honor to acknowledge the receipt of your letter of the 12th ultimo, together with its enclosures, viz: two commissions; copy of the treaty; law for executing it (in a newspaper); Colonel Forbes's instructions; royal order for delivery; translation of same; form of proclamation.

In pursuance of the instructions of the President, as communicated through you, I shall proceed, as soon as practicable, to Montpelier, *via* New Orleans, there to await the necessary information from Colonel Forbes, and shall immediately, upon receiving it, take possession of Pensacola, and proceed to organize the Government agreeably to the instructions. I hope to be able to leave this by the 15th instant, and to arrive at Montpelier by the 1st of May.

I have, agreeably to instructions, appointed Brevet Major General Gaines to receive possession of St. Augustine, and by the southern mail have forwarded him the necessary instructions for that purpose.

There is one subject which, at this early period, I wish, through you, to call the attention of the President to, and receive your instructions thereon. It is the situation of that part of the Creek Indians who in the late war abandoned their own country and fled to the Floridas, and continued hostilities against the United States until conquered in 1818. During that campaign, I order-

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ed the conquered Indians above the Florida line, and directed them to settle down within their own limits (the Creek nation.) I have lately, however, understood that McQueen and his adherents have made a settlement at Mickasuky, and also on the Suwanee river. Are these Indians to be ordered up to the Creek country, there to settle themselves, or are they to be protected in their new settlement? I have only to remark that the country set apart for the Creek nation is sufficient for the support of all, and that, by removing those within Florida, greater security will be given to our frontier, and the Government would more certainly be enabled to prevent smuggling, which, no doubt, will be attempted to a considerable extent, through the various inlets in the country now inhabited by them. Whatever may be the President's instructions upon this subject shall be strictly obeyed, and likewise in relation to the negroes who have run away from the States, and inhabit this country, and are protected by the Indians.

With sentiments of esteem and regard, I have the honor to be, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

NASHVILLE, April 10, 1821.

SIR: I have the honor to acknowledge the receipt of your communication of the 23d ultimo, and have perused with attention the instructions contained therein. The second article of the treaty, in which it is stipulated that the Territories of East and West Florida, and the fortifications within the same, are ceded and are to be delivered to the United States, is so clear and explicit, that it had never occurred to my mind that an attempt would be made by the Spanish authorities to strip the fortifications of their means of defence. Cannon is an indispensable appendage of a fortification, and the term fortification is always understood to include every thing appertaining to a work constructed for defence. Indeed, such was my view of that article of the treaty, that I should have considered the Spanish Government bound by their cession of the fortifications with the territory to pass over to the United States, not only the fortifications, but the ordnance and munitions of war contained therein.

If, on my arrival at Pensacola, any difficulty should arise on this subject, I will avail myself of your very just suggestions, and will endeavor, as forcibly as I can, to impress the Governor with a sense of the liberal construction which the United States are disposed to give to the treaty. In any event, you may rest assured that your instructions will be most promptly attended to.

I have the honor to be, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

NASHVILLE, April 24, 1821.

SIR: I have the honor to inform you that I sail from this place to-day, at one o'clock, P. M. I

have despatched my aid-de-camp, Captain Call, to Montpelier, with instructions to receive the communications from Colonel Forbes, in the event of his arrival before I reach that place, and to place the troops destined for the occupation of Pensacola in a state of readiness to march at a moment's warning. I hope to reach Montpelier by the 1st of next month, should I not be detained at Orleans for the want of a vessel to transport me to Montpelier. I am, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

NEW ORLEANS, April 24, 1821.

SIR: On the evening of the 22d instant I reached this city on my way to Montpelier, and will, if I can procure a transport, proceed on my journey on the 26th instant.

Immediately on my arrival, Mr. Fromentin waited upon me, and produced a commission dated in the year 1819, authorizing him to receive the Floridas, together with the archives at Pensacola and St. Augustine. He appears to be impressed with a belief that, although that part of his commission to receive the Floridas was superseded, yet, as the Executive had been silent on the subject of the archives to be received at Pensacola, &c., that he, with my approval, was entitled to the safe keeping of them. From the tenor of my instructions, I do not conceive that I can create any office in the Floridas that does not exist there at present, and that clerks of any kind except those that are contemplated under my instruction to translate and transcribe the archives for the information of the President, cannot be necessary until the next meeting of Congress. However, should the President be of opinion that a safe keeper of the archives should be necessary, and that Mr. Fromentin should be appointed to that trust, and express the same to me, with the salary to be annexed, I will immediately notify Mr. Fromentin thereof, and request his removal to Pensacola. But it does not appear to me that there can arise a necessity for any individual to have a copy of any of the records before the meeting of the next Congress. I shall, therefore, not make any appointment of this kind until I hear from the President on the subject.

I have here met with Major Stanton, of the Quartermaster's department, who advises me that he is without Quartermaster's funds for the purpose of carrying into effect the transportation of the civil and military officers of Spain from the Floridas, as stipulated under the late treaty with Spain; and informs me that it is understood by the Quartermaster General that through me the funds necessary to carry into effect the stipulation for transporting the Spanish troops are to be obtained. From the perusal of my instructions, it does not appear that I am authorized to draw upon the State Department for Quartermaster's funds, but will take upon me the responsibility so to do. I thought it most advisable to endeavor to raise here, by a draft upon your Department, the sum necessary to meet the expenses of receiving the

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country and organizing the Government, fearing that a draft would not be sold at Mobile or Pensacola. For this purpose, I offered for sale a draft, and found I could not obtain United States paper for it without a discount. I therefore directed Major Stanton to apply to the Branch Bank of the United States, to be informed whether it would advance upon my draft. It refused. I then addressed a note to the collector, Mr. Chew: the enclosed is his answer. I also enclose the statement of Major Stanton; from all which you will discover that, without a discount, money cannot be obtained here on drafts upon the Government. No delay, however, shall occur in the transportation of the Spanish troops from the want of funds, as far as I can command them; nor will I ever consent to sell bills on the Government at a discount to any, and more particularly to the Branch Bank of the United States, in which is deposited all the revenue of the Government received at this place. I shall endeavor, at Mobile or Pensacola, to raise the necessary funds on drafts. Should I fail there, I trust, upon the receipt of this, the Government will instruct the Branch Bank to furnish me with the amount that may be necessary to meet the expenses that may occur in receiving the Floridas, and organizing the Government thereof. I am, &c.

ANDREW JACKSON.

[Enclosures in the above.]

Major Stanton to Governor Jackson.

NEW ORLEANS, April 25, 1821.

SIR: Agreeably to your request of this morning, I waited on the cashier of the United States Branch Bank, and stated to him your wish to negotiate, through his bank, a draft on Washington for ten or fifteen thousand dollars, which he peremptorily declined doing. Knowing the importance of obtaining funds, and that money could not be had in market for drafts but at a discount, I ventured to state to the cashier such reasons as suggested themselves to my mind why the favor requested should be granted, and the very serious embarrassment that might result to the public service should he persist in his refusal; which, however, he thought proper to do, without assigning any other reason than that the instructions of the mother bank forbade his negotiating drafts.

I have the honor to be, &c.

H. STANTON, D. Q. M. G.

The Collector at New Orleans to Governor Jackson,
dated

APRIL 26, 1821.

SIR: I have the honor of acknowledging the receipt of your letter of yesterday's date, and should have been extremely happy to be empowered to advance the sum you require, by accepting a draft on the Department of State; but particular instructions from the honorable Secretary of the Treasury will be necessary to authorize me to make that disposition of the public money in my hands.

I am, &c.

BEVERLY CHEW.

Governor Jackson to the Secretary of State.

BLAKELY, ALABAMA, May 1, 1821.

SIR: I arrived at this place on the morning of the 29th ultimo, and immediately communicated with Montpelier by express, which returned last evening with information that no advices had been received there from Colonel Forbes.

Being informed that associations exist for the purpose of introducing a number of Africans into Florida before the change of Government, and for this purpose an agent from Baltimore, and another from the East are now, the one in Pensacola, and the other in Cuba or Bahama islands, to obtain possession of the ceded country as soon as possible, and thereby prevent the furtherance of this dreaded evil, I have this morning despatched Doctor Bronaugh and Judge Brackenridge with communications from the Governor of Pensacola, copies of which I send you herewith, marked Nos. 1 and 2, and also with instructions to inquire into the truth of a complaint made to me in New Orleans, and reiterated here, that the Spanish subjects in Pensacola are in the habit constantly of pulling down the houses of non-resident Americans for fuel.

My aid-de-camp, Captain Call, whom I sent from Nashville over land to Montpelier, has not reached that place, owing, it is believed, to the unusual freshets prevalent in the upper country. This will detain me here until the arrival of my horses, and until the return of the gentlemen whom I have sent to Pensacola.

I have directed Colonel Brook, in command at Montpelier, to forward to this place all communications which may be received at Montpelier for me.

As soon as I hear from the Governor of Pensacola I will communicate to you his reply.

I have signified to Commodore Patterson the propriety of sending a vessel to take a reconnaissance of the Florida coast as far as Tampa bay, to intercept any American vessel laden in whole or in part with Africans.

From conversing with Major Stanton, of the Quartermaster's department, on the subject of supplies for the Spanish officers and soldiers on their voyage to Cuba, and the inconvenience of preparing their bread on board, I have directed him to order Captain Rogers, of the commissariat department at New Orleans, to have a sufficient quantity of sea biscuit prepared for their supply. In this arrangement there will be a saving of tonnage to the United States, and it will have the happy effect of preventing any complaints from Spain on the score of supplies, or as to the liberality of the Government of the United States in their construction of the treaty. I hope this measure will meet the approbation of the President.

With high consideration and respect, &c.

ANDREW JACKSON.

No. 1.

Letter from Gen. Jackson to the Gov. of West Florida.

MONTPELIER, April 30, 1821.

SIR: Dr. J. C. Bronaugh, Surgeon General of the

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southern division, and my friend, and one of my private secretaries, Judge Brackenridge, will present you this letter; they are the bearers of a communication to you on the subject of a treaty between the United States and His Catholic Majesty, and also of all the documents with which I have been furnished to authorize me to receive possession of the Floridas. These gentlemen are authorized by me to receive any communication you may be pleased to make in relation to the necessary arrangements for the transportation of the officers and troops of His Catholic Majesty, or to such other subjects as you may think necessary, preparatory to the surrender of the Floridas, according to the stipulations of the treaty.

With sentiments of great respect, &c.

ANDREW JACKSON.

No. 2.

Copy of a letter from General Andrew Jackson to His Excellency Don Jose Callava, Governor of West Florida, at Pensacola.

MONTPELIER, April 30, 1821.

SIR: I have the honor to inform your Excellency that I have been duly commissioned by the President of the United States to receive possession of the Floridas, agreeably to the stipulations of the late treaty between the United States and His Catholic Majesty. I have also to state that Colonel James G. Forbes has sailed from New York to Havana, charged with the royal order to the Captain General for the delivery of the countries ceded to the United States by the said treaty, and that he is to communicate to me from Pensacola immediately on his arrival, which may be daily expected.

Being desirous, in order to avoid all unnecessary delay, to have in readiness, on the arrival of Colonel Forbes from Cuba, the necessary transports for the civil and military officers, and the troops of His Catholic Majesty, agreeably to the stipulations of the treaty, as well as for their supplies, according to the liberal construction which the President is disposed to give to the treaty, I have to request you to inform me of the number of officers and troops to be transported from Pensacola and St. Mark's, and also of the number of days in which the passage from Pensacola to Havana is usually performed. As the transports and supplies will be procured at New Orleans, you will be pleased to inform me what length of time will be necessary, on your part, after the arrival of the order from the Captain General, to enable you to make the necessary preparations to embark. This information is requested, in order that I may have every thing in a state of preparation for your transportation the moment you are ready. It is also important to enable me to have the necessary supplies transported to Pensacola and St. Mark's, and in depots, for the troops which are to occupy the Floridas.

It being communicated to me that it is expected, from the assurance of the Minister of His Catholic Majesty at Washington, that no unnecessary delay will take place in delivering posses-

sion of the Floridas, I have ordered the supplies of the troops of the United States to be forwarded to Pensacola and St. Augustine, and they are expected to arrive at those points by the 15th of the next month. The situation of my troops in the interior, and the difficulty of supplying them there, render this step necessary; and orders have been given to expedite no further supplies to the places which those troops at present occupy. A removal of them at an early day is, therefore, rendered necessary, and I have no disposition (unless urged by necessity) to move my troops to any garrison occupied by the troops of His Catholic Majesty, until the same shall be evacuated, being, I assure you, earnestly desirous that nothing may occur to disturb that harmony and good understanding which at present so happily exists between our respective Governments, and the citizens and subjects of each.

From a wish to maintain the most perfect harmony and good understanding between us during our correspondence, I have charged the bearers of this communication, Dr. J. C. Bronaugh, surgeon general of the southern division, and my friend, and one of my private secretaries, Judge Brackenridge, to make known to you the sincere desire, on my part, to carry into effect the stipulations of the treaty and the surrender of the Floridas with the utmost good faith and amity with the officers of His Catholic Majesty, as well as the promptness with which every thing stipulated under the treaty, on the part of the Government of the United States, will be executed, agreeably to the most liberal construction of that instrument.

I am, sir, with sentiments of respect, &c.

ANDREW JACKSON.

From Governor Jackson to the Secretary of State.

BLAKELY, May 7, 1821.

SIR: In my letter of the 1st instant I advised you of my arrival here, of communicating with Montpelier, and, hearing nothing from Colonel Forbes, of my sending Doctor Bronaugh and Judge Brackenridge to obtain information necessary to be had before I gave instructions to Major Stanton, quartermaster, to provide the transports and supplies necessary for the transportation of the Spanish officers and soldiers. These gentlemen have this morning returned. The enclosed translation of a letter from the Governor of Pensacola, and the report of these gentlemen, will give you the information acquired, and may not be uninteresting to you.

Finding, from the report of the above gentlemen, that the Hornet had reached the Havana on the 9th ultimo, and believing that she must reach Pensacola shortly, and reflecting that it is better for the transports to be ready with supplies, and to wait for the Hornet, than for the Spanish officers and troops to wait for the transports to be procured after her arrival, I have ordered Major Stanton to repair to Orleans and procure the transports and supplies, and have them ready to sail for Pensacola on the first notice of the arrival of the Hornet there. Major Stanton informs me that

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he thinks vessels can be obtained on much better terms now than they can be after it is known the *Hornet* has returned, and that transportation must be immediately had. He is instructed to make the most advantageous contract he can, to save any demurrage on account of any short delay; and I have no doubt, from the rumors of mercantile associations to introduce large quantities of goods into Pensacola, that there will be a great saving to the United States by having the transports ready on the arrival of the *Hornet*, as well as earlier possession of the ceded country.

It is all-important for the health of our troops to have them removed from Fort Gadsden in all this month, or early in the next, and every exertion, as far as it rests with me, shall be used to obtain this object. I am at a loss to conjecture the causes of the delay of the *Hornet*; a few days will give us the reason, and I hope it may not be found to exist in any understanding existing between an association of our merchants and the Governor General of Cuba; but it is rumored and believed here that such an attempt will be made by merchants to prevail upon the Governor General to withhold the order for the delivery of the Floridas until the last moment, to give time for the arrival of large shipments of goods for Pensacola. I am, sir, &c.

ANDREW JACKSON.

Report of Dr. Bronaugh and Judge Brackenridge to Governor Jackson.

BLAKELY, May 7, 1821.

SIR: In pursuance of your instructions, we left this place on Tuesday morning, and reached Pensacola about 10 o'clock the Thursday following. The *Hornet* was not there, but, from information on which we believe reliance can be placed, she arrived at Havana on the 9th ultimo.

We immediately addressed a note (A) to the Governor, enclosing our letter of introduction, and requesting an interview as soon as it would be convenient. He sent us a polite answer, (B,) inviting us to wait on him at the Government-house at 10 o'clock the following morning, the 4th inst. At the hour appointed we waited on him, and presented the communication from you, of which we were the bearers, and which, being explained to him, he observed that, on the subject of the treaty, he was only subordinate to the Captain General of the island of Cuba; that, as nothing had been communicated to him from his superior, he had no authority to enter into any arrangements respecting it; that he could do nothing until he should receive his orders through the regular and proper channel. He declared his wish to avoid all unnecessary delay, and to act with the utmost promptitude the moment he should receive his orders from the Captain General. We observed to him that this information was requested in order to prevent useless delay, to enable you with greater certainty to provide the transports and supplies, and offered to show him the copy of the royal order, and other papers in our possession. We reminded him of the situation of the

troops of the United States in the interior, intended to occupy the post within the Floridas; the approach of the sickly season; the difficulties of all military movements by land and sea, in this climate, after the months of May and June. He repeated that he had no authority whatever to take any step, until authorized by the Captain General; declined the perusal of the royal order, but declared his willingness to communicate fully all the information required by you, the moment of the arrival of the order from Havana. We then requested him to communicate in writing to you what he had stated to us, which he promised to do. We received his reply (E) in the evening, and next morning set out for this place, where we arrived this morning. Previously to our departure from Pensacola, we addressed a letter (C) to the Governor, expressing our regret at not being able to obtain the information which we sought, and enclosing a letter (D) to Colonel Forbes, making known your arrival, and stating your anxiety to obtain possession of the Floridas as speedily as possible.

With respect to the points on which we were instructed to obtain information, the following is the result of our inquiries and observation: The number of troops, including officers and persons connected with the Government, who will leave the country, does not exceed five hundred and fifty; two hundred of these are in Pensacola, the remainder at the Barrancas and St. Mark's. Every thing seems to indicate the prevailing understanding that they are shortly to quit the country. The troops are not regularly drilled; there are no morning or evening parades; the public buildings are entirely neglected; and the Government seems to be carelessly administered; the inhabitants are impatient for the change, and it is said that but few of the Spanish families will leave the place. The Governor, we were told, is personally desirous to be gone; he is a frank, candid soldier, and we have no doubt that any difficulties or delays which may occur will be occasioned by the Captain General.

There are at present in the harbor only a few coasting vessels; there have been but few arrivals, and we are satisfied, from every thing we have observed, that the accounts which we have received respecting the importation of Africans is not correct; if any such traffic be carried on, it is much more likely to be between Havana and St. Augustine. On the other subject respecting which we were directed to make inquiry, the injury said to be done by the soldiery to the untenanted houses belonging to American citizens, we find that such injury has been done alike to the buildings of Spanish subjects. Nearly all the houses of this place are in a state of dilapidation, and there are nearly one-half unoccupied, few of which can be inhabited without extensive repairs. Nearly every dwelling, however, has been taken by persons who are waiting with impatience the change of Government. Rents have risen astonishingly within a few weeks, and town property is now as high as it probably will be, excepting in particular situations, for some time to come. Nearly all

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the public squares, the ground around the block-houses, estimated at a very large amount, is claimed as private property, it having been sold by the order of the King, as we are informed, some years ago. It is a subject, however, very well worth inquiring into. We suspect there is a great deal of very valuable public property in and about Pensacola.

From the shortness of our stay, it was not in our power to obtain information on other subjects, and on those we have noticed not as full as we have wished.

We have the honor to be, &c.

J. C. BRONAUGH,
H. M. BRACKENRIDGE.

A.

Messrs. Bronaugh and Brackenridge to Governor Callava.

PENSACOLA, Thursday May 3, 1821.

SIR: We have the honor to inform your Excellency that we are the bearers of a communication from Major General Andrew Jackson, commanding the southern division of the United States Army, and commissioner for receiving the Floridas. The enclosed letter will explain the object of our visit.

We take the liberty to request an interview as soon as it may be convenient. Your Excellency will be pleased to intimate to us at what hour we may do ourselves the honor to wait upon you.

We have the honor to be, &c.

J. C. BRONAUGH,
H. M. BRACKENRIDGE.

His Ex^{cy} Don JOSE CALLAVA, &c.

B.

Governor Callava's answer.

PENSACOLA, May 3, 1821.

SIR: By your esteemed favor of to-day, enclosing the letter from Major General Andrew Jackson, of which you are the bearers, I am informed of your commission from the said General, and, in compliance with your request, I have the honor to inform you that at 10 o'clock to-morrow morning, the 4th instant, at the Government house, you may have the interview which you solicit.

I avail myself of this opportunity (the first which has presented itself) to offer you my services, and in the mean time remain

Your most obedient servant,
JOSE CALLAVA.

Messrs. J. C. BRONAUGH
and H. M. BRACKENRIDGE.

C.

Messrs. Bronaugh and Brackenridge to Governor Callava.

PENSACOLA, May 4, 1821.

SIR: We do ourselves the honor to acknowledge the receipt of your Excellency's reply to the communication of which we were the bearers from Major General Jackson, commanding the

southern division of the United States Army, and commissioner for receiving the Floridas.

We regret that your Excellency does not consider yourself authorized to communicate the information solicited, as it was extremely desirable, for the reasons which had been urged. An exact knowledge of the number of persons for whom transports are to be furnished, and the necessary supply of provisions, would have very much facilitated the arrangements on the part of the United States. It will, however, be gratifying to General Jackson to receive your Excellency's reply, on the arrival of Colonel James G. Forbes with the order from the Captain General of Cuba for the delivery of the Floridas, and to whom we have addressed the enclosed letter, which we take the liberty of requesting your Excellency to deliver immediately upon his arrival at this place. We have requested Colonel Forbes to receive any communication your Excellency may be pleased to make to General Jackson, and to forward the same, together with his own despatches.

We have the honor to be, &c.

J. C. BRONAUGH,
H. M. BRACKENRIDGE.

His Excel^{cy} Don JOSE CALLAVA, &c.

D.

Messrs. Bronaugh and Brackenridge to Colonel James G. Forbes.

PENSACOLA, May 4, 1821.

DEAR SIR: General Jackson arrived at Blakely on the 29th ultimo, and immediately sent an express to Montpelier, in expectation of meeting with despatches from you at that place. On the return of the express, he thought proper, from his great anxiety to comply with the wish of the President to obtain possession of the Floridas early in this month, to send us with a communication to the Governor of Pensacola, requesting the necessary information, to enable him to have provided the transports and provisions for the Spanish officers and soldiers, and also to communicate with you, calculating upon your having arrived. We were much disappointed at not finding the Horner at this place, but immediately requested an interview with the Governor, which we obtained the day following. He informed us that he could make no arrangements, or say any thing on the subject, until he received his orders through the Captain General of the Island of Cuba, to whom he is subordinate. We were therefore disappointed in obtaining for the present the information which General Jackson desires; the Governor promised, however, to communicate it fully, by express, as soon as you should arrive. General Jackson expected to have every thing in readiness by the fifteenth of this month, to transport the Spanish troops are expected at this place and St. Augustine troops to Havana. The supplies for the American by that day, and orders have been given to discontinue the supplies at the points which those troops at present occupy. The engagement of transports at New Orleans, and the purchase of supplies, must be delayed until the information requested

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by the General shall be obtained. The situation of the troops in the interior renders it very important that they should be removed without a moment's delay.

We therefore request you to receive the Governor's answer to General Jackson's communication, and to forward it with your own despatches for the General with the utmost possible expedition. He is extremely anxious to avoid all delay, as the season is now far advanced, and many reasons concur in rendering it necessary to take immediate possession of the Floridas.

We have the honor to be, &c.

J. C. BRONAUGH,
H. M. BRACKENRIDGE.

E.

Governor Callava to General Jackson.

PENSACOLA, May 4, 1821.

MOST EXCELLENT SIR: In the morning of the day before yesterday I received your Excellency's letter, dated at Montpelier, the 30th of April last, by which you are pleased to inform me that Dr. J. C. Bronaugh, Surgeon General of the Division of the South, and one of your private secretaries, Judge Brackenridge, are the bearers of a communication to me on the subject of the treaty between the United States and His Catholic Majesty, and also of the documents in virtue of which you have been empowered to receive possession of the Floridas; that the said Bronaugh and Brackenridge were authorized by you to receive any reply which I might think proper to make touching the necessary arrangements preparatory to the surrender of the Floridas, according to the stipulations. [Here follows a mere recapitulation of the letter of which Messrs. Bronaugh and Brackenridge were the bearers.] In reply, I have to inform your Excellency that, at the present moment, I cannot enter into the particulars which are suggested to me, not having yet received any orders from the Captain General of Cuba, the superior on whom I am immediately dependant, relative to the treaty and the surrender of this province, and by which my measures must be governed, in case I should be selected as the person to make the same. Messrs. Bronaugh and Brackenridge have requested that I would advise you of the arrival of the *Hornet* as soon as she may arrive at this port, which I consented to do with much pleasure.

I have the honor to declare how satisfactory to me are the sentiments you express, and I take this occasion to reciprocate the offer of my most sincere services.

I am, with the highest consideration, &c.

JOSE CALLAVA.

Governor Jackson to the Secretary of State.

MONTPELIER, May 19, 1821.

SIR: I am still without any information from Colonel Forbes, or from the *Hornet*, since her arrival on the 9th ultimo at the Havana, of which you were advised in my last. Her delay is unaccountable, and places us in an unpleasant situation.

It certainly was, from the treaty, the expectation of both Governments that we would have been in full possession of the Floridas before the 22d instant. The situation of the troops on the Appalachicola, in the interior, and which are to garrison St. Mark's, is unpleasant, and the delay will add much to the expense of transporting provisions to them, especially as they are again to be transported to St. Mark's. Believing, as I do, that, as soon as the Spanish agents are notified of the ratification of the treaty, and the exchange thereof, there can be no reason for delay, the moment the *Hornet* arrives I shall move to Pensacola, and, having taken possession, shall organize and exercise the Government of the country, as a thing which we have a perfect right to do at any time. The evacuation of the fortifications by the Spanish officers and troops, and the transporting them to Cuba, is another thing, to accomplish which they have six months, if it is not possible to withdraw them sooner.

Here, from my instructions, I am to remain until the arrival of Colonel Forbes; but, on his arrival, if any delay is attempted, it cannot be attributed to the Government of Spain, but a wanton act of her officers, not warranted by good faith or by the treaty. In this case, therefore, I have a right to present myself and demand possession. This course I intend to pursue, if necessary; and my conjectures that this course may become necessary grow out of the delay of the arrival of Colonel Forbes. From reading his instructions, I cannot see any real cause for his delay, or how it has occurred, or why he has permitted it; still, I hope he has good reasons to satisfy his Government in this particular.

I am, sir, &c.

ANDREW JACKSON.

Extract of a letter from same to same, dated

MONTPELIER, May 21, 1821.

On last evening Mr. G. L. Thompson reached me, having left the *Hornet* at Cuba on the 7th instant, and handed me a letter from Colonel Forbes, a copy of which is herewith enclosed. Mr. Thompson informs me that Colonel Forbes had assured him that he would not be detained more than four days at furthest, and stated to him that he had this positive assurance from the Governor General of Cuba.

I sincerely regret the delay of Colonel Forbes, as, on his arrival, I am prepared to present myself and receive possession of the country, and put an end to this barbarous traffic, [slave trade,] which I have no doubt is now practising on the coast of Florida.

I advised you in a former letter that I had sent bills on the Government, by Colonel Gadsden, to the amount of \$3,000, to be sold in Orleans. I am advised by him that he could not effect a sale of them, and that he was compelled to raise money to enable him to procure the necessary transports for Major Stanton from other sources, of which you will be advised hereafter. Unless the Government furnishes me with a check upon the

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Branch Bank of the United States at Orleans, I am fearful that I shall not be able to proceed well in the organization of the Government.

I enclose you a copy of a letter from the Governor of Pensacola, received by my aid-de-camp, (Captain Call,) together with a copy of his report, which will show you the feelings of the Governor, and that nothing is wanting but the arrival of Colonel Forbes to place us in possession of the ceded country. I am, sir, &c.

ANDREW JACKSON.

Copy of a letter from Colonel J. G. Forbes to Major Gen. Andrew Jackson.

HAVANA, May 7, 1821.

SIR: Commissioned by the President of the United States to deliver the royal order upon the Governor of Cuba for the delivery of the Floridas to our Government, I was directed by the honorable Secretary of State to communicate with your Excellency upon my arrival at Pensacola with the further order of the Governor to the Spanish authorities in the Floridas.

I arrived in the Hornet sloop of war on the 22d of last month, and was very favorably received by Governor Mahy, who expressed a wish to expedite me very promptly, as soon as the convoy for Spain sailed. This assurance has been renewed to me occasionally since, but I regret to say that I am still uncertain when I can receive either the necessary order, or the archives, which also come within the range of my commission.

I avail myself of the opportunity afforded by Mr. Thompson of making this communication, and take the liberty of suggesting to your Excellency the expediency of having a person at Pensacola from whom I can, on landing, receive such information as will enable me to communicate immediately with your Excellency by express.

I beg leave also to state that I have applied for an order, in duplicate form, so as to embrace East Florida, and that, on receipt of it, I shall endeavor to find a suitable opportunity of transmitting it to the commanding officer of the United States troops at Amelia Island, subject to such orders as he may receive from the Department of State, or from your Excellency, taking the original with me in the Hornet.

As Mr. Thompson is fully acquainted with the nature of my mission, I refer your Excellency to him for any further information, with the assurance that no exertions have been, or shall on my part be, spared, to carry into complete effect the objects of such national importance.

I am, with great respect, sir, &c.,

JAMES G. FORBES,
Commissary and Agent of the U. S.

Report of Captain Call to General Jackson.

MONTPELIER, May 21, 1821.

GENERAL: In obedience to your instructions of the 11th, I left this on the 13th, and arrived at Pensacola on the 14th instant. The result of my mission to which place I have now the honor to report.

On my arrival I addressed a note to the Governor, of which No. 1 is a copy, and received in reply No. 2, herewith enclosed. On the 15th I had an interview with the Governor, delivered your letter of the 11th, and received for answer No. 3, which I have presented to you, and from which you will find that the Governor has acceded to your proposition, so far as it relates to your making a deposit of provisions at Pensacola, to facilitate which he has offered a public store-house, and a guard for its protection. But he expresses much regret that he is not authorized to withdraw the garrison of St. Mark's until he receives the orders of the Captain General of Cuba to that effect. He pledges himself that every exertion in his power shall be made to carry the treaty into immediate operation; and that, when ordered by the Captain General, every facility on his part shall be given to the American authorities for the most prompt occupation of the ceded territory. I had repeated interviews with the Governor, and, as far as I had an opportunity of forming an opinion of his character, I believe him to be a frank, ingenuous soldier, and that every confidence may be placed in the professions which he has made. Of this I am sure—he is not less anxious to leave than you are to occupy the ceded country. For information relative to the sloop of war Hornet, I refer you to Mr. Thompson, who left her in the port of Havana on the 9th instant.

I am, sir, &c.

R. K. CALL, A. D. C.

No. 1.

Captain Call to Governor Callava.

PENSACOLA, May 14, 1821.

Captain Call of the United States Army, presents his respects to Don Jose Callava, Governor of West Florida, and informs him that he is the bearer of a communication from Major General Jackson to his Excellency, with whom Captain Call requests the pleasure of an interview.

No. 2.

Answer to the above.

PENSACOLA, May 14, 1821.

His Excellency Governor Callava has just received Captain Call's note. He presents his respects to him, and informs him that he may have the interview which he requests at ten o'clock to-morrow morning, in the Government-house.

No. 3.

Copy of a letter from the Governor of West Florida to General Andrew Jackson.

PENSACOLA, May 16, 1821.

MOST EXCELLENT SIR: I received yesterday morning, with much satisfaction, by the hands of Captain Richard K. Call, your Excellency's aid, your communication of the 11th, in reply to mine of the 4th instant.

I am persuaded that I stated to Judge Brackenridge, in the interview with me, and on the delivery of your first communication, that your Excel-

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lency would find no obstacle to the depositing at this place the supplies to which you refer, and on this occasion I have given the same assurance to Captain Call.

The suggestion of your Excellency respecting the transportation of the Spanish garrison of St. Mark's to this place, in order that, united with the rest, they may sail together under the convoy of the *Hornet*, is as worthy of your Excellency's prudence as it is necessary and proper, and I shall contribute to it with pleasure (as soon as the expected orders shall arrive from the Captain General) as far as may be in my power, and with the activity and energy necessary to prevent the inconveniences which may be occasioned by delay. I regret that, at present, this is not within the compass of my authority, those orders not having yet arrived.

I hope your Excellency will do me the honor to be fully persuaded that I heartily concur with you in wishing that every thing between us may be conducted with the utmost harmony and friendship; as, also, of the satisfaction which your sentiments have given to the officers and troops under my charge, as well as to myself.

As soon as I shall be empowered to enter on the subject of the evacuation of this province, I will transmit to your Excellency, with the utmost punctuality, the information requested of me, and whatever else may contribute to the more satisfactory accomplishment of the business. Captain Call shall receive from me all the respect and attentions due to him, as well on account of his individual worth, as of the pleasure I take in honoring your Excellency's recommendation.

God preserve you many years.

JOSE CALLAVA.

• *Governor Jackson to the Secretary of State.*

MONTPELIER, May 30, 1821.

SIR: In my letter to you of the 21st instant, I advised you of the arrival of Mr. Thompson, and the receipt of a letter from Colonel Forbes, a copy of which I enclosed to you, and which I hope will reach you in due time.

I have had no information from Colonel Forbes since my last, but it appears to be understood and expressed by the inhabitants of Pensacola that we will not get possession until the expiration of six months from the exchange of ratifications of the treaty. My letter of the 19th instant will have given you my construction of the treaty, and my power under the commission to take possession of the Floridas, combined with your instructions. I shall anxiously await your answer to that letter, as I have but little doubt now but we will experience every delay that can be thrown in our way, and I have no wish to do any act contrary to my instructions or the wish of my Government; but when I review the delays and conduct heretofore practised by the Spanish Government, I feel myself bound to oppose any attempt to prostrate our national character, and to violate the pledges of friendship given in the treaty. I feel every desire to harmonize and to obtain possession of the coun-

try ceded in the most gentle manner, provided I meet a corresponding disposition on the part of the officers of Spain; but if the order for the delivery should not be sent by Colonel Forbes to the Governor of Pensacola, on his report that he has delivered the royal order to the Captain General and Governor of Cuba, I deem it imperious upon me to advance within the limits of Florida, tender sufficient transportation, and demand a surrender of the country, agreeably to the second article of the treaty; it being presumed that the Governor General of Cuba has done his duty, and that, duly notifying the Governor, he has given the necessary order for the delivery of the ceded country. If the Governor alleges that he is not ready to deliver the country and embark his troops, it seems to me that he is not only bound to show good reasons, but also to defray the expenses of demurrage incurred upon the public vessels ordered for the transportation of his troops. If the Spanish Governor should not embark his troops before the 22d of August next, must not the Spanish Government, after that date, furnish their own transportation, having violated the treaty? and have I not a right, after that date, to take possession by force, if not peaceably surrendered? From the wording of the act of Congress, I have no doubt we have.

I hope I may be agreeably disappointed in my forebodings; but, from the declarations of some Americans that we will not get, nor have a right to demand, possession until the expiration of the six months, and that even then we must negotiate for possession, added to the delay already experienced, I am induced to believe that every delay will be experienced that the Spanish officers think will be submitted to by the American Government. Be assured I shall act with caution, but with firmness and energy. I cherish a hope that the officers of Spain may meet me harmoniously; and, although appearances are at present to the reverse, I still believe they think that I will act promptly, and that they will be thereby induced not to hazard too much by unnecessary delay. I shall wait with anxiety for your answer to my letter of the 19th instant. I am, sir, &c.

ANDREW JACKSON.

Extracts of a letter from Governor Jackson to the Secretary of State, dated

MONTPELIER, June 9, 1821.

I am still here awaiting the arrival of Colonel Forbes, from whom I have heard nothing since the receipt of his letter of the 7th May last. As I advised you, Major Stanton has engaged the transports, and they will be in Pensacola bay on the 10th instant, unless adverse winds prevent. They were to sail from Orleans on the 3d instant.

It was calculated with certainty that Colonel Forbes would have been here long since. Should he permit himself to be much longer detained, the demurrage on the transports here and at Amelia Island will be a heavy item in our expense, and occasion us to lose many soldiers by removing them in the height of the sickly season; for, sir, to

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be candid, I have now no hopes of his arriving here before the latter end of this month, or perhaps the 22d of August. I am, sir, &c.

ANDREW JACKSON.

P. S. 9 o'clock P. M.—A letter from Pensacola states that a gentleman just arrived from the Havana states that the Intendant died on the 19th ultimo, and Captain Read lay very ill. By Lieutenant Hawkins, from Mobile, I am informed that a captain of a vessel from Havana stated to him that Captain Read, of the Hornet, was dead. No account of Colonel Forbes.

Governor Jackson to the Secretary of State.

CANTONMENT, MONTPELIER,
June 10, 1821.

SIR: The mail is just passing, and I have only time to say that an express reached this from Pensacola, one hour since, bringing the information of the arrival of the Hornet at that place yesterday. We shall move from this on the 14th instant, and hope to be in possession of the Floridas as early after that date as possible.

I have the honor to be, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

MONTPELIER, June 11, 1821.

SIR: My note of yesterday, sent by express after the post rider, will have advised you of the arrival of the Hornet at Pensacola on the evening of the 9th instant. The communication of Colonel Forbes to you, enclosed to me for perusal, with a request to forward the same as early as practicable, will afford you all the information I yet possess on the subject. There can now be no cause for delay in delivering the provinces of Florida, conformably to the stipulations of the treaty, unless it should arise from the error committed in designating Colonel Forbes, in the Captain General of Cuba's order, as United States Commissioner authorized to receive the ceded country, and which error appears not to have been corrected on the note attached to the order addressed to the Governor of West Florida, as Spanish commissioner.

Colonel Forbes has not made known to me the causes which detained him after the receipt of the Captain General's order for the delivery of the provinces, which bears date the 5th of May, 1821; and it is unaccountable how it should have required until the 28th of the same month for the two notes to be annexed, which are dated on that day.

By reference to Colonel Forbes's letter to you of the 8th instant, it appears that Don Alva, his Spanish colleague, is alone charged with the delivery of East Florida. Should this prove to be the fact, considerable delay and embarrassment may result, as the only public vessel on this station (the Nonsuch) was despatched from Havana to St. Augustine by Colonel Forbes, with the supposed commissioner, Arredondo, for the deliv-

ering the province of East Florida to the constituted authorities of the United States.

If Don Alva's presence in St. Augustine be indispensable, it is uncertain when he may be able to reach that place; nor do I conceive that, under the treaty, the United States is bound to furnish him with transportation. It is my intention to send Colonel Gadsden to St. Augustine as soon as possession is obtained of Pensacola, and I have applied to the collector of the port of Mobile for the revenue cutter Alabama for this purpose. Should this vessel be obtained, a passage will be offered Don Alva. I can only assure you that, guided by your instructions, no further delay in obtaining possession of the Floridas will be permitted. I do not anticipate any, unless it should grow out of the detention of Don Alva at Pensacola. I am advised by Colonel Butler that the transports were at Charleston on the 9th ultimo, and must have reached Amelia Island by the 15th. All necessary arrangements connected with the occupation of West Florida have been matured. The transports were to have sailed, with Major Stanton on board, from New Orleans on the 3d instant, and their arrival in Pensacola may be expected daily. I am, sir, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

MONTPELIER, June 13, 1821.

SIR: Your communications of the 22d and 23d ultimo, accompanied with a list of appointments made by the Executive, with a view of establishing and enforcing the revenue laws of the United States within the Territories of East and West Florida, conformably to the act of Congress for the government of said provinces, were received late last night by express. They have been placed on file, and their contents duly noted.

With respect, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

MANUEL'S, (15 miles from Pensacola,)

June 29, 1821.

SIR: I arrived here on the 15th instant, since which I have been employed in making the necessary arrangements for receiving possession of West Florida, &c., and have the honor to inform you that every thing is now in readiness but a vessel, to supply the place of the transport Cora, which was chartered by Major Stanton at New Orleans, and unfortunately lost off the Balize in a heavy gale on her way to Pensacola. Another transport could only be procured at New Orleans, and it was confidently expected that Quartermaster Hunt, stationed at that place, would have chartered another vessel, and despatched her here immediately upon hearing of the loss of the Cora; but this responsibility it appears he did not think proper to assume, although he must have received information of her loss shortly after the accident, and no step was taken to supply another until the arrival of Major Stanton's express, who

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was despatched to Orleans the instant that a vessel could be procured to transport him, after the information of her loss reached Pensacola. The winds have been unfavorable, but the arrival of the transport I think cannot be delayed more than a day or two, and immediately after I shall receive possession; as I have the pledge of the Governor that, in four days, or six at furthest, after the arrival of the transport, he will deliver formally the keys of Pensacola to me.

Some difficulty was likely to have occurred in relation to the artillery appertaining to the fortifications. The Governor contended that he had the right to take them away, as they were not specifically ceded under the second article of the treaty. I claimed them as being included under the term *fortifications*, and urged that it might be considered a violation of the treaty if an attempt should be made to strip the fortifications of their means of defence, and instanced the case of a vessel of war transferred from one nation to another, which might as well be stripped of her armament by the party disposing of her, as to remove from a fortification its guns mounted for its defence, which would entirely change its character, and reduce it to a mere edifice. He, however, at length agreed that an inventory should be taken of ordnance stores, &c., and the subject be referred to our respective Governments, they remaining in the possession of the officers of the United States until the question should be decided. Immediately upon claim being set up to the ordnance, and a receipt being demanded for it, as in deposit, I demanded a receipt for the provisions, and likewise for the transportation which would be furnished for the civil officers, and families of officers, which were not specifically enumerated under the seventh article of the treaty. This also has been agreed to, and is to be referred in like manner to our Governments. So soon as I receive possession of the country, I will submit to you all the correspondence which has taken place on this subject, and also a full report of all my proceedings adopted in relation to the occupancy of the Floridas.

In justice to Major Stanton, I must add that no blame can possibly be attached to him for the loss of the transport *Cora*, he having used every necessary precaution to ascertain that she was seaworthy, as he had been ordered by me to employ no vessel unless he was satisfied that she was such. His report, together with certificates, &c., which fully prove that he faithfully performed his duty, shall be furnished you.

The unlooked-for delay of the *Hornet*, in the first place; the extraordinary occurrence of Don Alva bringing with him to Pensacola a despatch to the Governor of East Florida, which the Governor of West Florida yesterday assured me was from the Captain General of Cuba, and relates to the delivery of East Florida, when the United States vessel *Nonsuch*, at the request of Colonel Forbes, was ordered from Havana direct to St. Augustine, together with the delay which has necessarily [been] occasioned by the loss of the transport *Cora*, will add to our expense in obtain-

ing possession of the Floridas. And, to prevent any further delay from the circumstance of Don Alva having brought to this place despatches for the Governor of St. Augustine, and to insure immediate possession, Colonel Gadsden will sail tomorrow in the United States schooner *Revenge*, which fortunately touched on yesterday at Pensacola, taking with him the necessary orders to Colonel Butler, and offering to carry the despatch to the Governor of East Florida.

I was fortunate enough to obtain from Colonel Gadsden the sum of four thousand seven hundred and twenty dollars, for which I have given him duplicate drafts, as per letter of advice.

I have had much writing in answering the letters of the Governor of Pensacola, which has engrossed all my time, and given great labor to my translators. I have the honor to be, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

PENSACOLA, July 17, 1821.

SIR: Mine of the 29th June advised you of the occurrences to that date. I have now to inform you that, at 10 o'clock of this day, the province of West Florida, with its dependencies, &c., was delivered to me in due form by Don Jose Callava, the commissioner on the part of the King of Spain.

I shall take the earliest opportunity to communicate the circumstances preceding and attending the surrender. Suffice it to say, for the present, that it was accomplished in the most friendly and harmonious manner, although, at one moment, from a misapprehension on both sides, I did not flatter myself with so happy an issue.

Some ordinances for the better government of the town and province, and in fact which are absolutely necessary, have been prepared; copies of these, as well as a report of my whole proceedings as commissioner for receiving possession of Florida, will be forwarded to you as soon as possible, and I am satisfied they will be found strictly within the powers with which I am clothed by the President.

None of the officers appointed by the President for this province have yet joined me; whether any of those appointed for East Florida have arrived, I am not certainly informed.

With great consideration, &c.

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

PENSACOLA, July 18, 1821.

SIR: I have the honor to enclose you the *procès verbal*, having retained the duplicate.

Very respectfully, your most obedient servant.

[Without signature.]

The undersigned, Major General Andrew Jackson, of the State of Tennessee, commissioner of the United States, in pursuance of the full powers received by him from James Monroe, President of the United States of America, of the date of the 10th of March, 1821, and of the forty-fifth [year]

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of the Independence of the United States of America, attested by John Quincy Adams, Secretary of State; and Don Jose Callava, commandant of the province of West Florida, and commissioner for the delivery, in the name of His Catholic Majesty, of the country, territory, and dependencies of West Florida, to the commissioner of the United States, in conformity with the powers, commission, and special mandate, received by him from the Captain General of the island of Cuba, of the date of the 5th of May, 1821, imparting to him therein the royal order of the 24th of October, 1820, issued and signed by His Catholic Majesty Ferdinand the Seventh, and attested by the Secretary of State, Don Evaristo Perez de Castro:

Do certify by these presents that, on the seventeenth day of July, one thousand eight hundred and twenty-one of the Christian era, and forty-sixth [year] of the Independence of the United States, having met in the court-room of the Government-house, in the town of Pensacola, accompanied on either part by the chiefs and officers of the Army and Navy, and by a number of the citizens of the respective nations, the said Andrew Jackson, Major General and Commissioner, has delivered to the said colonel commandant, Don Jose Callava, his before-mentioned powers, whereby he recognises him to have received full power and authority to take possession of and to occupy the territories ceded by Spain to the United States, by the treaty concluded at Washington, on the 22d of February, 1819, and for that purpose to repair to said territories, and there to execute and perform all such acts and things touching the premises as may be necessary for fulfilling his appointment conformably to the said treaty and the laws of the United States; with authority, likewise, to appoint any person or persons in his stead to receive possession of any part of the said ceded territories, according to the stipulations of the said treaty. Wherefore, the colonel commandant, Don Jose Callava, immediately declared that, in virtue and in performance of the power, commission, and special mandate, dated at Havana on the 5th of May, 1821, he thenceforth, and from that moment, placed the said commissioner of the United States in possession of the country, territory, and dependencies of West Florida, including the fortress of St. Mark, with the adjacent islands dependent upon said province, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings which are not private property, according to, and in the manner set forth by the inventories and schedules which he has signed and delivered, with the archives and documents directly relating to the property and sovereignty of the said Territory of West Florida, including the fortress of St. Mark, and situated to the east of the Mississippi river; the whole in conformity with the second article of the treaty of cession concluded at Washington, on the 22d of February, 1818, between Spain and the United States, by Don Luis de Onis, Minister Plenipotentiary of His Catholic Majesty, and John Quincy Adams,

Secretary of State of the United States, both provided with full powers; which treaty has been ratified on the one part by His Catholic Majesty Ferdinand the Seventh, and the President of the United States, with the advice and consent of the Senate of the United States, on the other part; which ratifications have been duly exchanged at Washington the 22d of February, 1821, and the forty-fifth [year] of the Independence of the United States of America, by General Don Dionisio Vives, Minister Plenipotentiary of His Catholic Majesty, and John Quincy Adams, Secretary of State of the United States, according to the instrument signed on the same day.

And the present delivery of the country is made in order that, in execution of the said treaty, the sovereignty and the property of that province of West Florida, including the fortress of St. Mark, shall pass to the United States, under the stipulations therein expressed.

And the said Colonel Commandant, Don Jose Callava, has, in consequence, at this present time, made to the Commissioner of the United States, Major General Andrew Jackson, in this public cession, a delivery of the keys of the town of Pensacola, of the archives, documents, and other articles, in the inventories before mentioned; declaring that he releases from their oath of allegiance to Spain the citizens and inhabitants of West Florida, who may choose to remain under the dominion of the United States.

And that this important and solemn act may be in perpetual memory, the within named have signed the same, and have sealed with their respective seals, and caused to be attested by their secretaries of commission, the day and year aforesaid.

ANDREW JACKSON.

By order of the Commissioner on the part of the United States:

R. K. CALL, *Sec'y of the Commission.*

JOSE CALLAVA.

Por mandato de su Señoria el coronel comisario del Gobierno, de España:

El Secretario de la Comision, JOSE Y. CRUZAT.

[The following papers, relating to the same subject, were communicated by the messages of the 29th January, 19th April, and 6th May, 1822.]

The Secretary of State to Mr. Forsyth.

DEPARTMENT OF STATE,

Washington, June 13, 1821.

SIR: The hope had been entertained, after the ratification by both parties of the treaty of 22d February, 1819, between the United States and Spain, that all our relations with that country would henceforth have been of the most amicable character, signalized only by the interchange of good offices. It is painful to be obliged, on your return to your station at Madrid, to charge you with representations to be made to the Government of Spain relative to the unwarrantable delays of the Governor and Captain General of the

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island of Cuba in taking the measures incumbent upon him for carrying the treaty into execution.

By the seventh article of the treaty, the Spanish troops were to be withdrawn from the ceded territories, and possession of them was to be given of the places occupied by them within six months after the exchange of the ratifications, *or sooner if possible*; and the United States were to furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

As soon as was practicable after the exchange of the ratifications, arrangements were made on the part of this Government with the view of carrying into effect these stipulations. The royal order from the King of the Spains to the Captain General of the island of Cuba for the delivery of the ceded territories, and of the archives belonging to them, to the Commissioners of the United States authorized to receive them, had been transmitted, with the Spanish ratification of the treaty, to the Minister of Spain residing here, to be delivered by him after the exchange of the ratifications. It was accordingly delivered by him. Colonel James Grant Forbes was appointed by the President to carry it to the Governor of Cuba, and commissioned to receive the orders to the Governors or commanding officers of the places within the territories for their delivery, and also the archives which were to be given up. The United States ship *Hornet* was despatched to the Havana with Colonel Forbes, who was instructed, on receiving them, to proceed with them forthwith to Pensacola, taking suitable measures for transmitting the order to the Governor of East Florida, at St. Augustine. A letter from the Spanish Minister here to the Governor of Cuba was also furnished to Colonel Forbes, announcing him as the officer authorized to receive the order for delivery and the archives. General Jackson was appointed by the President Governor of East and West Florida, and was instructed to proceed immediately to Montpelier, the post within the United States nearest to Pensacola, there to await the arrival of Colonel Forbes with the necessary orders; upon which the General was directed to receive possession for the United States; and to provide for the transportation of the Spanish officers and troops and their baggage to the Havana; and by a liberal construction of that article of the treaty, the provisions necessary for the subsistence of these officers and troops on their passage were considered as included within its obligation.

General Jackson reached the post of his destination on the 30th of April. On the 22d of the same month, Colonel Forbes had arrived in the *Hornet* at Havana; and, had he been despatched without delay, might have arrived at Pensacola in season for the reception of General Jackson, without any unnecessary detention. The letters received at this Department from Colonel Forbes (copies of which are herewith enclosed) exhibit a series of delays on the part of the Governor, for which no adequate reason is assigned, but which have already produced great public inconvenience to the United States, and which, if longer continued,

will give them the most serious grounds of complaint. The last letter received from Colonel Forbes bears date the 23d of May, when his detention had already been protracted more than a month; in the interval of which, the reappearance of the disease incidental to the climate excited strong apprehensions for the health of the captain and crew of the *Hornet*, as well as of Colonel Forbes himself. There is too much reason for the alarm with regard to Captain Read, who is stated, by accounts of dates more recent than those officially received, to have been on the 28th of May still at the Havana, and very dangerously ill.

General Jackson, desirous of ascertaining the number of men for whom it would be necessary to procure transports and provisions, as well as to make arrangements for the supplies necessary to the troops of the United States who were to take their place, sent, on the first of May, Dr. Bronaugh and Judge Brackenridge to Pensacola, with a communication to Don Jose Callava, Governor of West Florida, to communicate to him the commission and authority with which he was clothed, and to ask of him such information as would be necessary for the arrangements adapted to the evacuation of the territory by the troops of Spain; and to the taking of possession on the part of the United States. Governor Callava declined making any such communication, declaring himself subordinate altogether to the Governor General of Cuba; and that he did not feel authorized to act at all in regard to the execution of the treaty, until duly instructed to that effect by his superior officer. The letters (copies of all which are enclosed) contain intimations from various sources that all these dilatory proceedings have too much connexion with private purposes and dishonorable pecuniary speculations. It is yet wished that this awkward and unpleasant state of things may before this have terminated; but the unreasonable delays of the Governor General of Cuba, inconsistent no less with good faith than with the good harmony which we are so desirous of cultivating with Spain, cannot be suffered to pass without animadversion. You will take the earliest opportunity after your arrival at Madrid to make suitable representations on this subject to the Spanish Government, and to state that whatever unpleasant or injurious consequences may result from this unwarrantable conduct of the Governor of Cuba might be attributed altogether to him.

By the fourth article of the treaty, each of the contracting parties engaged to appoint a commissioner and a surveyor, to meet before the termination of one year from the ratification of the treaty, at Natchitoches, on the Red river, to run and mark the boundary line. Colonel McRea has been appointed the commissioner on the part of the United States, and will be ready to proceed on the important duties of the commission as soon as the appointment of the Spanish commissioner and surveyor shall be notified to us. It is further stipulated that the two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and to their escorts, if necessary. At the time of the exchange of rati-

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fications, General Vives, at my request, promised to remind his Government of the necessity of an immediate appointment of the commissioner and surveyor on their part. It is presumed this will have been done before you reach Madrid. Your attention to the subject is nevertheless requested, in case any thing should yet remain to be done to put in train the execution of this article. As the necessary supplies for the commissioners will be naturally best known on the scene of their operations, it is presumed the Spanish Government will authorize its Minister here to agree for them to such arrangements in this particular as may be found necessary.

I am, with much respect, &c.

JOHN QUINCY ADAMS.

JOHN FORSYTH, *Minister, &c.*

The Secretary of State to Mr. Forsyth.

DEPARTMENT OF STATE,
Washington, June 16, 1821.

SIR: Since my letter of the 13th instant, a letter of the 28th ultimo, with enclosures, has been received by Colonel James G. Forbes, copies of which will be forwarded to you next week. By a letter of the 5th instant from Mr. Warner, our commercial agent at the Havana, we are informed that Colonel Forbes, in the Hornet, sailed for Pensacola on the 30th ultimo, and the Nonsuch for St. Augustine on the 1st instant.

It is hoped that on the arrival of these vessels at the places of their destination no further vexatious and unwarrantable delays will occur in the execution of the seventh article of the treaty. But Colonel Forbes has been obliged to depart without the archives and public documents which were stipulated by the treaty, and directed by the royal order to the Governor and Captain General of Cuba to be delivered over to us.

As Colonel Forbes thus appears to have been at last despatched, the uncertainty as to the extent of time during which this measure might be protracted has ceased; and the representation which, by my letter of the 13th instant, you were requested to make to the Spanish Government, will properly be accommodated to the circumstances as now known to us. With the complaint of delays, without assignment of any reasonable cause, which it will yet be proper that you should prefer, a firmer confidence in the expectation that no further unnecessary postponements will occur may be expressed; but our disappointment at the detention of the archives will also require to be more explicitly signified; and it will be very desirable that you should obtain a new and peremptory order to the Governor and Captain General for the delivery of all the archives and documents to which we are entitled by the treaty, which will leave him no apology or pretence for either denial or procrastination.

I am, &c.

JOHN QUINCY ADAMS.

JOHN FORSYTH, *Minister, &c.*

Extract of a letter from Mr. Forsyth to Don Eusebio de Bordazo y Agava, Minister of Foreign Affairs at Madrid, dated

MADRID, September, 1821.

As soon as the treaty of the 22d February, 1819, was ratified by the Government of my country, the necessary steps were immediately taken on its part for carrying it into execution. By the 7th article of the treaty, the Spanish troops were to be withdrawn from the ceded territories, and possession was to be given of the places occupied by them within six months after the exchange of the ratifications, or sooner if possible; and the United States were to furnish the transports and escort necessary to convey the Spanish officers and soldiers to the Havana. The royal order from His Catholic Majesty to the Captain General of Cuba for the delivery of the ceded territories, and of the archives belonging to them, to the commissioner of the United States authorized to receive them, was delivered by His Majesty's Minister to the American Government with the ratified treaty. Colonel J. G. Forbes was appointed by the President to convey this order to the Governor of Cuba, and commissioned to receive the orders of the Governors or commanding officers of the places within the territories for their delivery, and also the archives that were to be given up. The ship of war Hornet was sent to the Havana with Col. Forbes, who was directed, on receiving them, to proceed forthwith to Pensacola, taking suitable measures for transmitting the order to the Government of East Florida at St. Augustine. A letter from the Spanish Minister near the United States to the Governor of Cuba was also furnished, announcing Colonel Forbes as the officer appointed to receive the order for delivery and the archives.

General Jackson was appointed Governor of East and West Florida by the President, and was instructed to proceed to Montpelier, the post within the United States nearest to Pensacola, there to await the arrival of Colonel Forbes with the necessary orders; upon which the General was directed to receive possession for the United States, and provide for the transportation of the Spanish officers and troops and their baggage to the Havana; and, by a liberal construction, the provisions for the subsistence of the officers and troops were considered as included within the obligation of the seventh article of the treaty.

General Jackson reached the post of Montpelier on the 30th of April. On the 22d of the same month, the Hornet arrived at Havana with Colonel Forbes; and, had he been despatched without delay, might have arrived at Pensacola in season for the reception of General Jackson, without unnecessary detention. It is with regret that I have to state that, so far from immediately despatching Colonel Forbes, by issuing the necessary orders, and delivering the archives, there was, on the part of the Governor General of Cuba, a series of delays, for which no adequate reason has been assigned, until the end of the month of May, and then Colonel Forbes was under the necessity of departing without having received the archives. Great public inconvenience has

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been, and will be, sustained by this conduct of the Captain General, not less inconsistent with the obligations of the treaty, than, as the United States believe, with the orders of his own Government. The health of the commissioner and of the officers and the crew of the *Hornet* was endangered by a continuance, at an unhealthy season, in the port of Havana; in fact, her commander, Captain Read, a gallant and meritorious officer, was nearly lost to his country by the ravages of the prevalent disease of the West Indies. General Jackson, desirous of ascertaining the number of men for whom it would be necessary to procure transports and provisions, as well as to make arrangements for the supplies necessary to the troops of the United States who were to take their place, sent, on the 1st of May, a communication to the Governor of West Florida of the commission and authority vested in him by the President, and to ask such information as was necessary to provide for the evacuation of the territory by the Spanish troops, and the occupation of it by those of the United States. This information was not furnished; Colonel Callava replying that he could not act until duly authorized by his superior officer.

In the mean time, intimations were received by the American Government, from various sources, that these delays had too much connexion with private purposes and dishonorable pecuniary speculations. Without giving credit to these intimations, the Government of my country is nevertheless under the necessity of stating that all the injury which has been sustained, and may arise, from the delay to deliver the ceded territory, is to be imputable to the Governor of Cuba; and while the proper confidence is entertained that no further unnecessary postponements will occur in the evacuation of the territory, the failure to deliver the archives is a subject of surprise and disappointment. Although, by the royal order, the delivery of the archives is expressly directed, I would submit to your Excellency the propriety of furnishing me with a new and peremptory order to the Governor and Captain General of Cuba for the delivery of all the archives and documents to which we are entitled by treaty, that will leave him neither apology nor pretence for denial or procrastination.

Mr. Salmon to the Secretary of State.

PHILADELPHIA, Oct. 6, 1821.

SIR: It falls to my lot, and to me it is very grievous, to see myself under the necessity of commencing my functions as *Chargé d'Affaires* of His Catholic Majesty with complaints. This is the more sensibly felt by me, inasmuch as I have to direct them against an officer of the United States, a conspicuous citizen of the Union, and a highly distinguished General—the hero of New Orleans.

Colonel Don Joseph Callava, as commissary on the part of Spain, confirmed the delivery of West Florida to General Andrew Jackson, who was authorized to receive it, on the 17th of July last; and he could not leave the province on the same

day, because it was impossible for him to have concluded the press of business which the delivery produced; and, also, because he was sick; and, lastly, because he had, with the same General, to await the decision of their respective Governments whether the artillery should be included in the treaty or removed, (which was kept in the mean time under his care.) Upon this decision, principally, his remaining in Florida depended, in order to consummate the delivery. Colonel Callava, therefore, remained there, not as an individual, for his pleasure and personal purposes, but for fulfilling his duty as a commissary, charged to give a due effect to the treaty of 22d February. As a commissary, he acted with Governor Jackson many days after the delivery of the province, (on the 3d of August;) and, as a commissary, he was in the territory of a friendly nation, under the protection of the most sacred law of nations. But all laws, divine and human, were, in the present case, trampled under foot by General Jackson.

By the accompanying copy of protest, you will be informed, sir, minutely, of the transactions at Pensacola on the 22d of August last. A copy of other faithful documents likewise accompanies this, which prove the truth and correctness of the whole, as far as the commissary, Don Joseph Callava, has explained; and I am also ready to show you the originals whenever you may demand them.

The treaty of the 22d February speaks of certain documents and papers which the Spanish commissaries were to deliver to those of the United States along with the Floridas, being allowed to carry away others only. The classification of the whole being made, Colonel Callava made the delivery in due form of the former, and then of the second to the Secretary of War and Finance, the officer Don Domingo Sousa; leaving the official correspondence of the Government in the charge of the secretary. The whole were ordered to be put in boxes, in order that, as soon as the commission should be concluded, they might be removed from the province; and Sousa was executing the orders of the commissary, Callava, when three men (to him unknown) presented themselves to him, and, saying that they were commissioned by Governor Jackson, demanded of him those papers. Sousa replied that they were not his, and consequently that he could not give them; but if there were any which they wanted, they could have recourse to his principal, the commissary; but the sight and examination of them were not refused. The same men afterwards returned, repeating that they came for the said papers, and they gave him a note of those which they demanded. Sousa replied as before; but, alarmed at the second visit, and fearing lest they should be taken away, he carried them (now in boxes) to the house of the commissary; but, finding him absent, he gave them to his steward. Such is the origin, without disguise, of the atrocious injustice which was afterwards committed upon the Spanish commissary, Callava.

Although his subjoined document shows that none of the papers were of the class of those which

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ought to have been delivered, since they had no direct relation to the sovereignty and public property of the province, (as the whole belonged to the military, financial, admiralty, or Government archives,) yet there is no opportunity, at present, for discussion on this point. Wherefore, he wishes it to be well understood that General Jackson did not demand them officially of him, Callava; and that a question of that sort ought not to be decided, in the first instance, by the bayonet. Notwithstanding this, the aforesaid General acted in the manner which you will see explained.

Only upon slight suspicions that the Spanish commissary unduly retained some documents, and without their having been demanded in the regular and accustomed way, was his house assaulted and entered by force, in the silence of the night, by a company of soldiers. The servants and friends who were with him were driven from it, and he, being alone, sick, and almost confined to bed, was torn from it with sad array, and conducted, like the most abandoned criminal, about the middle of the night, before Governor Jackson. In vain did he represent the privilege of his character. In vain did he protest against a conduct so atrocious. In vain did he beg to be kept in arrest at his own house, or at least that time should be given him to recover a little from the illness under which he labored. All was in vain. In so abandoned a situation, even there, also, he underwent a species of trial which he could not understand, from his ignorance of the language. A person acted as interpreter, who did not choose to interpret all that he said. A person who acted as *interpreter and secretary* at the same time, gave as such testimony what that very person had said, and not what the Spanish commissary had wished he should say. From thence they carried him to the prison and he was set at liberty the day following; but his house, in the mean time, his property, and the papers of his Government, remained at the mercy of the soldiery. He found the seals of his Government broken, and some papers thrown about, and of that he took testimony. This is, in a few words, the history of the noisy occurrence of the 22d August, in Pensacola.

Colonel Callava, considered as a private individual, was in Florida under the protection of the civil laws which secure property and persons. As the Federal Constitution, so also, the present Spanish constitution guarantees these laws of protection. Both constitutions separate the judicial power from the executive, which the Governor or Captain General of a province exercises, (without which the power would not be independent.) Both constitutions, then, condemn the acts of the General. Arbitrariness in the decrees, informality in the process, inhumanity in the execution of the decrees, are here the characteristics of his procedure with Callava. General Jackson, as Commissary, as Governor, and even, if you please, as Supreme Judge, trod all the laws under foot.

If Callava be considered, as in fact he was, as *Commissary of His Catholic Majesty* for bringing to a due conclusion the treaty of the 22d of February, he remained in Florida under the privilege

and protection which the laws of the countries (the most sacred) and the law of nations grant. In every way the procedure of General Jackson is irregular, illegal, unconstitutional, and violent. If the security of his person be not guaranteed to the commissary, if impediments are put in the way of the exercise of his duty, how can he execute the charge with which the King has intrusted him according to the last treaty of the 22d of February?

The scandalous proceeding of General Jackson against the Spanish commissary is wholly without example, and my Government cannot but view it as a grievous offence committed against Spain. It will be viewed, even by the sensible citizens of this Union, whose sentiments on the point of honor and philanthropy are well known to the whole world, as an insult offered to their country, and to the free constitution which governs it. All nations who esteem themselves civilized and Christian will look upon it as an outrage upon humanity itself.

Wherefore, I believe it my duty to protest, and I do protest, in the name of His Catholic Majesty, before the Government of the United States, against the injustice which General Andrew Jackson, Governor of the Floridas, has committed upon the Spanish commissary, Colonel Don Jose Callava. And I doubt not but that the Federal Government, upon a view of the authentic facts which I have related, will highly disapprove of the irregular and precipitate conduct of the above-mentioned General, and thus give to Spain a proof of friendship which will redound to the honor of both nations; and I expect this with the more confidence, since His Catholic Majesty has recently determined to give a new evidence, among many others, of his particular esteem and regard for the interests of the United States in the permission which he has granted them of keeping in Mahon a deposite of provisions and naval stores, which they may introduce free of duties.

I embrace this occasion of doing myself the honor to present to you, sir, a testimony of my particular respect and distinguished consideration, and pray God that you may live many years.

H. DE RIVAS Y SALMON.

[Copies which accompany the note.]

- A. Protest of Callava, with its appendix.
- B. Testimony upon the bad interpretation of an interpreter.
- C. Another of many witnesses on what passed with Sousa, Fullarat, and Callava.
- D. Summary of what Jackson did.
- E. Testimony of how he found his house after he was set at liberty.

A.

Protest of Colonel Callava.

PHILADELPHIA, October 3, 1821.

I, Don Jose Callava, Colonel of the Spanish armies, late Governor of West Florida, and at present commissary, representing my Government, in order to carry into complete effect the stipula-

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tions between His Catholic Majesty and the President of the United States of America in relation to said Florida, in the treaty of amity, settlement, and limits which they made and ratified on the twenty-second of February of the present year, one thousand eight hundred and twenty-one, do make oath, as far as the law requires, upon my honor, as to the truth of what was committed against my privilege, person, house, and papers, on the evening and night of the twenty-second day of August of the said present year, by Don Andrew Jackson, commissary in said Florida, representing the United States under the same treaty.

On the 17th day of July last, at ten o'clock in the morning, I delivered West Florida, which was that day under my charge as Governor, in which character he met me, to the commissary, Don Andrew Jackson, in a public act held in the Government house. There he received from me all the archives and documents registered, and directly relative to the property and sovereignty of that province of Florida; and he received them by faithful and exact inventories, which had been compared with the documents by four persons, and had been certified to be correct. From the constitutional Spanish *alcalde*, and by my order, an *alcalde* named by Don Andrew Jackson received, by like inventories, all the criminal and civil causes of the suits of the neighborhood which are pending before the tribunal of the first instance, over which he presided, and also the notices and papers of its archives.

The papers of the official correspondence belonging to the secretary's office remained in the charge of the secretary of my Government; and the military papers, judicial proceedings of the national finance, and arrivals, (*arribadas fincidas*,) belonging to their respective branches at the Havana, to which they have been restored by the evacuation, remained with the Secretary of War and Finance, which office Don Domingo Sousa had exercised for the space of fifteen or twenty years. There also remained the smaller vessels, their crews, carpenters, and blacksmiths of the garrison, the effects of the magazines, which were to be withdrawn; the commander of artillery, with the accounting officer of that department, some sick troops, and myself with the aforesaid; and the effects, and all that remained under my authority and prerogative, during the execution of what was intrusted to me, and ordered to be completely fulfilled; and the artillery, with what belonged to that department, kept under my protection during the delivery or removing of it, (which in either case had to be executed by me,) according to the determination which might be made by the President of the United States and the Minister Plenipotentiary of His Catholic Majesty near that Government, according to an agreement entered into by us, the commissaries, (as the official correspondence between us shows,) and to which I have given performance; and in this state, and as far as I have related, I have waited for that resolution, (which is yet pending;) and the commissary, Don Andrew Jackson, so understood me,

(for my Government has substituted no other person in my place;) and I also was recovering from an acute disease, which had at that time brought me to the gates of death.

The day previous to these transactions, (the 21st of August,) three persons, dependants of Don Andrew Jackson, came to the house of the secretary, (Sousa,) to be informed if he had in his possession some military testamentary dispositions, which they mentioned to him. Sousa told them yes, and without reserve they were shown to them; and he informed them that if they wished for any thing, they should ask me. All the papers which he had in his charge were closely examined: they declared they would carry off those which they had pointed out to him, because they could not be in his possession as a private individual. Sousa told them that he was not a private individual; that he was an officer depending on my commission and authority; and that he could not give them without my order. And finally they went away, leaving the papers. They demanded of him an answer in writing, which they obtained from Sousa, on a second visit.

The following day, (the 22d,) in the morning, this officer met me in the street. He informed me of the occurrence, and also told me that he had resolved to carry the boxes to my house, with all the papers which he had in his possession, and had delivered them to my steward, not having found me within; because he was afraid, from what he had observed in those people, that they might take them away from his house, and he wished to save himself from the responsibility. And I answered that *it was well*.

At four in the afternoon of the same day, and not much before, I was dining at the table of Colonel George M. Brooke, of the fourth regiment of the United States line, and of the garrison at Pensacola, by whom I had been invited, with all the Spanish officers residing there. The company consisted of Brooke, his wife, Judge Fromentin, the commander of the United States vessel of war *Enterprise*, Mr. Michael Kearney, the citizens Vicar Don James Coleman, Don John Innerarity, Don Juan de la Rua, Don Pedro de Alba, and Don Jose Noriega; and the officers Lieutenant Colonels Don Marcos de Villiers and Don Francisco Palmos; Captains Don Luis Guayare and Don Bernardo Prieto; Lieutenants Don Arnaldo Guillemond and Don Carlos de Villiers; and Sub-lieutenants Don Mariano Latady, and Don Jose Ignacio Cruzat, secretary of my Government.

Don Domingo Sousa presented himself to me there, with an officer of the United States, telling me that he was a prisoner; and that the reason was, that the three persons of the former day had returned to his house the day before, telling him that they came with orders from Governor Andrew Jackson to seize the papers; that, having informed them that he had that morning sent them to my house, they searched his house, and at last carried him to prison. And he related before the company what had occurred about the papers with the same persons the preceding day.

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I immediately ordered my aid-de-camp, Don Bernardo Prieto, accompanied by Alba, who was the public interpreter, to present my compliments to Don Andrew Jackson, and to inform him that Sousa was in fact, as he had intimated, an individual of my commission, and was under my power and authority; and that he could not deliver the papers in question of himself; that he would have the goodness to ask me in writing for such as he might find it proper to claim; and if they were to be given by the regulation of the treaty, or other particular circumstances, I would deliver them to him by the same procedure which indispensable regularity dictated, as had been done with the other papers; or that he should have, in the same way, a distinct explanation of the reasons which prevented their delivery; and that every direct mode of conciliation should be sought, if there was any thing that could be of use to him in any way.

The aid-de-camp and interpreter brought back for answer that Sousa should go to prison, and that they should tell me that I should be put into another dungeon with him.

It appearing to me that Don Andrew Jackson had not been well informed of my message by the interpretation, (although the incident offended me and surprised those at table,) I made the same persons return and inform him a second time; and that gentleman repeated to them in a loud voice, in the presence of several persons, and upon the street balcony, the same thing, saying, Colonel Callava to the dungeon!

An occurrence so strange and abusive in the presence of those who surrounded me at table, a great part of whom were there as a greater compliment to me, and others my subordinates, could not but raise a blush in my face, and disorder my stomach in the very act of eating, and in the convalescent state in which I was; and I felt myself attacked by a deadly pain, (which I almost habitually suffered, and which had frequently attacked me on the preceding days;) notwithstanding, I concealed the circumstance so as to render it impossible to be discovered, that, upon quitting the table, I might go and reflect, for it was not known upon what such answers or occurrences rested.

We all left the table. Brooke's lady was very much grieved, and I was going to the street, when three persons presented themselves to me in Brooke's house, telling me, from Don Andrew Jackson, that they came for the papers which Sousa had carried to my house, or to carry me with them to Jackson's house; because the Governor, with his authority, could not respect me in any other light than as a private individual.

Astonished to find myself involved in such events, with expressive actions I entreated them to do me the honor of returning to the commissary Governor with my compliments, asking him how he could forget that I was the Spanish commissary who had delivered to him that province, and whom he had found as Governor in it, and who at the same time had not been removed by his Government, nor concluded the delivery, nor withdrawn the artillery, (the destination of which was expected,) nor of other things under my pow-

er? That I was surprised at what passed between us; that he would have the goodness to reflect that every paper in my possession on that day belonged to the Government which I had exercised in that province, was sacred under my authority and character, by the privilege of the law of nations, which has always been mutually observed and respected among nations, as to those individuals of either to whom the execution of treaties has been intrusted, or other commissioners, and it is a thing unknown that any authority has forcibly violated a trust so sacred, without cause or reason; that whatever paper he might wish to ask, he might demand of me in writing; that, on that very day, I had offered him this, if it was to be given, or the reasons for its not being my duty, or not being in my power to give them; that this was the only mode agreeable to the exact usual procedure in the important charge with which we were intrusted, in the political subject between nations, in the performance of which he could not, by his authority, call my proceedings in question, nor constrain them by judicial force as Governor, by which the security of the papers in my possession could be violated, or any other thing directly depending not on my person, but on my official situation; that I should preserve, as to myself and to my nation, the peace and harmony in which I found our countries, and that I have preserved it with the utmost care as to the Commissary, and as to the Governor, as far as I have been concerned with him, and also preserved it indiscriminately to all the citizens of the United States who had remained permanently in Florida, or who had passed through during my government.

The officers went away to carry this answer, which was given them in the presence of all at Brooke's house; and I, feeling now a recurrence of my pain, requested them to permit me to go home, whither several of those persons accompanied me. As soon as I arrived, I caused my secretary to extend in my office all that I had said to the persons sent, and with him I sent Lieutenant Colonel De Villiers, accompanied by another officer, to the Governor, thinking that thus my answer might be more correctly understood by him; but, when it was presented he would not receive it, and they brought it back to me unopen.

After these officers returned to me, now at my own house, the same three persons came with a determined and brief message that I must not make any pretensions to official situation or other considerations—"the papers, or go with them." I was surrounded by my officers, and other persons of character, whose countenances I saw filled with pain and surprise to see me in the sad state of suffering, and unable to remain tranquil. Till then I knew not of what papers they spoke, as I had not entered upon an inquiry, nor had they given me an opportunity of doing so; and I answered them that I was unable to go out of my house. I entreated that they would, at least, give me an abstract of what papers and of what class those were which they demanded, and I would inform Don Andrew Jackson that I was sick.

Without giving me any answer, they went away,

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and I laid myself on the bed. An hour afterwards, one of the three presented himself in my house, and gave me an abstract, written on a half sheet of paper, in the English language, and signed "Alcalde Brackenridge." I took it; I told him that I should have it translated, and should reply to it. He went away. I gave it to the interpreter at that hour, which was nine at night, and sought repose on the bed; but, a while after, and without further preliminaries, a party of troops, with the commissioners, assaulted the house, breaking the fence, notwithstanding the door was open; and the commissioners entered my apartment; they surrounded my bed with soldiers with drawn bayonets in their hands; they removed the mosquito net; they made me sit up; and demanded "the papers, or they would use the arms against my person."

It ought to be remarked, that, of the three, only one spoke and understood a little of the Spanish language. He was the only interpreter; and I neither spoke nor understood one word of English, and thus I neither knew what he said to his companions respecting what I answered, nor did they know what was asked me. I had to do with him alone, and he was one who had gone and returned with them in all their visits. Some officers and other persons who had accompanied me from the house of Brooke, and who had not yet retired, and were seated in the gallery of the house, leaving me to repose, entered the room; and I answered in their presence that the note had not yet been returned translated, but that this was of no consequence; that there were all the boxes containing papers, my trunks, and all my house; that, since force had once been openly used in their command, they there had every thing at their disposal, without any resistance on my part; but that, before they should proceed to take what they thought fit, I represented to them that now, since my person was not secure as a free man, and in a free country, in the asylum of my house, and in the dead of the night, and that what ought to be preserved to my nation was not respected in my official situation and character, I laid these things before the Government of the United States, and took refuge under their laws, and hoped that they would respect both.

They did not proceed to search for papers, nor did they move any further question about them, when they now saw them at their disposal; but they ordered the troops to carry arms, leave me alone, and send from my house those who assisted and accompanied me. This they did; and to one who appeared desirous to interpret in English what I had said for their better understanding, they intimated, with threats, that he should be silent as soon as he had begun; and I continued alone sitting on the bed, and they in the apartment, looking at each other.

In fine, in a short while after, one of the three went out, and returned accompanied with an officer, who, placing himself before me, told me I was a prisoner, and ordered me to dress myself. I answered that I was so, but that he would have the goodness to observe that I was so sick as that

I ought not to be taken out of my house at that hour. He made no answer to the interpreter, and remained silent; but one of the three deliberately ordered me to dress. I dressed in my uniform, was going to put on my sword, but, upon reflection, thought it better to deliver it to the officer. I did so, and one of the three took it from his hand and threw it upon the chimney, and in this manner I was conducted through the streets among the troops.

They took me to a private house, in which they presented me to Don Andrew Jackson, who, with two other persons, was seated near a table; the house was filled with people of all ages and classes, and there he made me a sign to sit down, which I did. By the only interpreter who had hitherto delivered and carried back the verbal messages I have already mentioned, he put one question to me, according to my recollection, confined solely to whether certain papers had been carried to my house by Don Domingo Sousa, and delivered to my steward.

I requested him to permit me to answer in writing, and to do so with my own hand. He granted it readily. I set myself to write a regular protest, that I might go on to answer afterwards; but I had hardly begun when Don Andrew Jackson took the paper from before me, and, with much violence and furious gestures, spoke for some time, looking at the by-standers; and when he had concluded the interpreter told me that he had ordered me to give no other answer to all that he had asked me but yes or no. I replied that I offered to be very brief, but that he should question me by writing the question, and permitting me to write the answer with my own hand, and give in my turn the most precise reason for it. He absolutely refused me, and the interpreter wrote upon that same paper which had been snatched from me I know not what.

Don Andrew Jackson proceeded to speak for a considerable time, looking at the people, but speaking furiously; and in the countenances of the by-standers I perceived fear or surprise, caused by what he said. He concluded, and the interpreter told me that the Governor would not treat with me in any other way than as a private individual; this idea (which I knew not how to account for) made me catch at the word, and demand some explanations. Don Andrew Jackson did not permit me to speak. I insisted that the interpreter should translate what I said; he was sometimes about to do this, and he interrupted him at the very beginning; so that of all that he said in two hours, (and Don Andrew Jackson directed himself to me,) only the aforesaid intimation was translated to me, that I had not a word to answer but yes or no to what I should be asked, and that the Governor would not treat me in any other way than as a private individual. Nothing was read to me, nor was I informed of any thing which the interpreter wrote in that act, nor was any signature required of me; and seeing myself in such circumstances I put a question, by my secretary, to that of the Government of Don Andrew Jackson, if he could furnish me with an authentic copy of all

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that had been written in the execution of these transactions, and he answered him in the affirmative.

I remained silent; they called my steward; they asked him if certain papers had been delivered to him by Sousa at my house? He answered, yes.

Don Andrew Jackson drew from among other papers one which was already written; he read it to me, and it contained the order for committing me and my steward to prison.

I got upon my feet; I begged the interpreter to ask him if he did not shudder, and was not struck with horror at insulting me; and I pronounced a solemn protest against his proceedings. The interpreter informed him, and he replied, that for what he had done he had no account to give but to his Government, and he told me that I might protest before God himself.

I was carried off to prison at twelve at night, and my steward also. I left my house open, with three or four soldiers of the United States troops in it. I left all my private papers, all the official correspondence of my Government, and what was under my charge officially, without any account, at the discretion of Don Andrew Jackson. The keys of my trunks and money chests were not removed. I left in my house no person to represent me, and who was in my confidence; and, lastly, by a respectable citizen of the United States, and my officers, at two in the morning, a couch was spread for me and my other assistants to throw ourselves down upon; (for, by Don Andrew Jackson, I was permitted to throw myself, sick as I was, upon the bricks of the prison;) when, afterwards, I was informed by various persons who understood the Spanish and English languages, that the matters above related, which had been conceived against me, and were not translated by the interpreter, consisted in having endeavored to persuade the people that the papers were taken from the office of the alcalde, and that I was an accomplice in that criminal action.

At eleven in the morning of the following day, the 23d,) Judge Eligius Fromentin issued a writ of habeas corpus for the release of my person; and Don Andrew Jackson answered that it was not proper to carry it into execution; but, on the same day, at one in the afternoon, he gave order that an officer should inform me that I was released from prison, and might be accompanied by him to my house to examine if the boxes were sealed.

I replied to the person who communicated this to me that I could not enter it unless accompanied by a judge, who might be present, and certify to the situation in which all things in it were found, since I had been dragged from it, leaving every thing to their discretion.

The officer accompanied me into the presence of Judge Fromentin, whom we found sick. I related to him what had happened, and entreated him to afford the protection of the law to my prerogative, person, and house. He informed me that he could not assist me, because his situation rendered it impossible; but he would cause wit-

nesses to accompany me, who should make the examination, and sign it.

I went thither with the officer and many other persons: it was found open, with three or four soldiers within; the papers of official correspondence scattered upon the table, and the covers open; one box, which was left shut, and sealed with the seal of my Government, had been burst open, the seals broken, and again shut, with different seals; and nothing was found wrong in the contents of the money chest. I had not time to examine the papers, nor could I do it, because I was too much indisposed.

On the 26th day of the same month, about half past three in the afternoon, the secretary of the Government of Don Andrew Jackson delivered to mine the testimony which I had asked on the night of the 22d; and early in the morning of the following day, (the 27th,) sick as I was, I set out with my secretary for Washington, to give an account to the Minister Plenipotentiary of His Catholic Majesty near the Government of the United States, leaving without my power and authority in Pensacola what was under my charge belonging to the nation of which I am a dependant, because in me all confidence and every law of nations had been violated by the authority now existing there.

To this faithful narrative, to which I have sworn upon my honor, I add separately, in order to avoid confusion, notes and observations which express and produce the necessary proofs for this condensation.

1st. That the papers in question were most legally and regularly given to the care of Don Domingo Sousa, into his possession, and under my power and authority.

2dly. That they never were abstracted, fraudulently or otherwise, from the archives of the alcaldes.

3dly. That he did not think of concealing them.

4thly. That it was impossible to conceal them, and,

5thly. The nullity and bad aspect of the judicial proceedings against me, against my subaltern, and against my steward, by Don Andrew Jackson, on the day of those events and actions which I have related; and I have produced the proofs of them, as well by authentic as by original documents, all which might be considered as an integral part of this relation, to which I have sworn. And, therefore.

Seeing that Don Andrew Jackson, at present Governor of West Florida, has violated, in that territory, under his authority, the immunity and confidence with which I held in it my situation of commissary for Spain, carrying into effect, under that treaty, what was stipulated by her and the United States in a solemn treaty: that he has also violated the pale of my charge, by breaking open and plundering their sanctuary, at his own discretion alone; by insulting my person in the most illegal manner, and by deeply wounding my character and honor, and by the supposition, before the public, of events which I leave to their merits, (*amertadas*;) and by obliging me by all this to

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leave Spain without a representative in said Florida, to the dereliction of its interests: I solemnly protest against the aforesaid Don Andrew Jackson, as the actor in the before-mentioned deeds, before the Minister Plenipotentiary of His Catholic Majesty near the Government of the United States of America.

JOSE CALLAVA.

A true copy:

H. DE RIVAS Y SALMON.

APPENDIX TO COL. CALLAVA'S PROTEST.

Statement of the papers comprehended in the notice of the 22d August, sent to the Spanish commissary, Don Jose Callava, by a person who signed himself H. M. Brackenridge, Alcalde.

1. The papers relative to the testamentary disposition of Jose Maria Vidal.
2. The proceedings in the case of Manuel Bonfay and Carlos de Ville.
3. The proceedings in the case of Carlos de Ville and Eugene Sierra.
4. The documents in the case of Pedro Guilkes and Tomas Villaseca.

Observations and elucidations which show the merit importance, and circumstances of these papers.

THOSE OF VIDAL.

Vidal died auditor of war, in Pensacola, in eighteen hundred and six; he left four daughters, whom he had by a mulatto woman, who were informed by the authorities of those times of the sale of some part of their property at Baton Rouge, and, of course, their right to it; and Vidal's property in it ceased, because its having passed to another possessor appears evident from all the antecedent decrees in the register and notarial offices, where the property was then sold, and may afterwards be sold, passing from one to another.

What may depend upon that testamentary disposition has nothing to do with Florida, and belongs entirely to some creditors whom Vidal left residing in the Spanish territories; therefore, those papers belong to the captainship general, with its auditory of war, because, by the evacuation of Florida, it has resumed the authority and tribunal of the Spanish Government of Pensacola. I repeat, it has no existence at this day in Florida: the right of presenting their actions in their proper and natural tribunals cannot be taken from creditors who are Spaniards and reside in the territories of Spain; but, nevertheless, it is also observed (in order to convince that not one person was injured by it in West Florida, in any point of view) that, after the evacuation of the province, the quadroon Merced, daughter of Vidal, requested the Spanish commissary to deliver to her this testamentary disposition, in order that she might show it to lawyers of the United States, that they might inform her if she could obtain any thing from it; and the Spanish commissary ordered the clerk, Don Domingo Sousa, to give it to her, and he told the quadroon, if she wished to procure an authentic copy, to remain in Pensacola, or in her own power, that she might extract it in her own

house, and avoid the expenses of the clerk, and that what might be extracted might be immediately compared, and he would legalize the whole, gratis. The quadroon received these papers, and had them on the day when they were demanded in the manner expressed in the proceedings, and she may have them still, since they have neither been procured or demanded to be returned: all which will be hereafter verified.

THOSE OF CARLOS DE VILLE.

Carlos de Ville was a lieutenant colonel of the regiment of Louisiana, stationed in the garrison of Pensacola, and died in eighteen hundred and twenty, (in the time of my Government.) About six months before his death, more or less, he sold a house, the only property he had in Florida, and, after his death, all that he left came, in the end, (*vino en remmen*.) to consist of some pay which was due for his service by the National Treasury. He named as his executor an officer of his own regiment, who went in one of the transports to join it in Havana, on the day of the evacuation of Florida, carrying with him the papers of the testamentary disposition to obtain from the Treasury what was due to the deceased De Ville: he also left some children, whom he had by a mulatto woman, as his sole heirs, but neither their mother nor they are in Florida, or have a residence in it.

Four or six months after the death of De Ville, a difference arose between a Spanish agent, named Don Eugene Sierra, against the testamentary execution about the right of property of a small part of the enclosure of the house which he had sold. Sierra had no means of justifying his claim; I decreed that he should present the proof of property in the time prescribed by law, and that, in the mean time, the executor should not dispose of the property according to the provisions of the testamentary disposition; and thus this difference was suspended, waiting for the time. The property is in possession of the executor at the Havana; thither Sierra is destined, as well as the other agents who have been removed from Florida: the purchaser has quiet and peaceable possession of what he purchased by public and registered deed in the archive delivered, so that, if Sierra has a right, the recovery is certain, and in the place where he can do it; therefore, the demand of these papers is yet more unnecessary, if possible, than that of the others, and their trifling importance has been seen.

THE CASE OF PEDRO GUILKES AND TOMAS VILLASECA.

They have had a dispute for about fifteen years in the court of the Treasury, (*tribunal de Hacienda*.) concerning the right of property of a piece of ground; the proceedings proved that it was in neither, and the Treasury sold it for two or three hundred dollars, and in those times employed it in building three small wooden bridges over some rivulets, for the more convenient passage of the people. The purchaser justified the property in Florida by a deed, or document, which the

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Treasury granted him. Villaseca and Guilkes could not be permitted to plead to a thing which had been finished fifteen years by authority of an affair judged of, nor can it enter into the imagination that it can interest them, nor that they have pretended such a thing, as, in fact, it is not evident that they have made any such request; it is only to be attributed to this: that, on the day when Sousa showed all the papers to those three persons, they, from their animosity, and without entering into an investigation of the precedents, became judges, parties, and attorneys, without knowing what they asked. The proceedings of the Treasury in recoveries, and which produce its entries, are those which produce due steadiness in account and reckoning.

The importance, merit, and circumstance of the papers have been deduced. The case of Manuel Bonfay, which was mentioned in the abstract of Brackenridge, does not take place, because it is comprehended in that of Sierra and De Ville; Bonfay being the person who represents the purchaser of the house: which is another convincing circumstance that the same Brackenridge did not understand what he asked for.

Observations and precedents, which form proofs that the papers in question were, with the greatest legitimacy and in the care of Don Domingo Sousa, and under my power and authority.

That they never were fraudulently or otherwise taken by him from the archives of the alcaldes.

That he thought as little of concealing them, and that the concealment of them was next to impossible.

And lastly, reflections in regard to the interest to which the actions of Don Andrew Jackson against the Spanish commissary could contribute.

OBSERVATION 1.

The Governor of Pensacola, with a lawyer of the title of auditor, exercised all the authority of West Florida in the courts known in Spain, previous to the constitution, except the ecclesiastic, and constituted there the tribunal of the first instance, in which Don Domingo Sousa had acted for fifteen or twenty years as secretary, with an assistant; and under his care, and in his office, were all the causes and documents of the office, because there never had been in Pensacola a person under the title of Secretary.

OBSERVATION 2.

In the middle of the year 1820, the constitution was established in Pensacola, and by it the political and military governors were deprived of the jurisdiction which they exercised by the ordinary ancient custom. The nomination of a constitutional alcalde took place, into whose power that court came, (he was Don Jose Noriega,) and to Sousa all the causes and papers relative to the sentence which this alcalde passed came by inventories now existing. It does not appear in those inventories that the papers mentioned in the notice of Brackenridge had been passed to him, which had not taken place, for the reasons which will be mentioned in the following observation.

OBSERVATION 3.

The military court was left by the constitution in the same state as formerly, and by that the Governor, with his auditor, exercised in it the same jurisdiction as before. The causes of finance, also, were of the same resort, as well as those of the *arribadas*; and in these three jurisdictions the Secretary, Don Domingo Sousa, remained with the Governor and the alcalde, to whom other persons were occasionally called to sit in judgment. The testamentary dispositions of Vidal, as he died auditor of war, were dependent on the military court, and the case of Villaseca and Guilkes on the finance; and thus both remained in the jurisdiction of the Governor, and in the office of Sousa.

OBSERVATION 4.

In 1820, Lieutenant Colonel Don Carlos de Ville died, and, as a military man, his testamentary disposition was subject to the court of the Governor, and consequently to the office of the Secretary, Sousa: these papers, therefore, not having been in the archives of the alcaldes, could not be taken from them.

OBSERVATION 5.

The province was delivered over, on the 17th July, to the commissary of the United States. The Spanish alcalde delivered over all the papers of his archive and jurisdiction, by inventory, to another alcalde, whom Don Andrew Jackson named to receive them; and this last did not receive the said papers from the former; therefore, they could as little be taken from him.

OBSERVATION 6.

Nothing was delivered over from the office of Sousa, either to an alcalde named by Jackson, or to any other person, either on the 17th or afterwards; therefore, it is fully proved that such papers were not taken from any of the places from whence they are supposed to have been taken.

These are not the first or second falsehoods which, in the discharge of his duties as commissary for receiving Florida, Don Andrew Jackson has forged to provoke disorders, and to compel me to what it required all human prudence in me to shun; which appears well established in the official correspondence which he has held with me.

Although the reason why the papers of the office of Sousa were not delivered over on the 17th July is here of no consequence, as Don Andrew Jackson, neither as commissary of the United States, nor as Governor of Pensacola, is judge of the residence of a commissary in relation to the functions committed to him by Spain, and as he had nothing else to do but to ask of me whatever he thought it his duty to receive, as comprehended in the treaty, and, in case they were not given to him, to represent it to his Government, to which it belonged to exhibit to mine what it might think necessary, and be confident of satisfaction; nevertheless, I shall express it.

They were not delivered over because they consisted of testaments of soldiers who were not in Florida, and it had not been stipulated that all Spaniards should be prevented from representing

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their rights in their respective and natural tribunals; nor was it a thing which, in any point of view, interested, or could interest, the United States, in suits of judicial recoveries by the finance, and of shipwrecks and arrivals of vessels, of which the cases were deposited in the national bureaux, and were passed to those of the Havana; but these papers were not yet withdrawn and sent to any part out of Florida, because, with those of the official correspondence of the secretary's office of the Government, which I still left in the charge of the secretary, I had detained them with me under my power and authority as commissary for Spain, because, if any doubt was raised whilst I remained with this charge, as I was remaining to manage it in the way my duty demanded, and having concluded the whole, to make the proper use of them, when the period should arrive for me to withdraw.

Proof that the Secretary (Sousa) did not keep the papers concealed, but also that, at the very time, it was next to impossible that he could conceal them.

OBSERVATION 1.

Sousa kept them in the proper place, where the rest were kept. The first time that they were asked for by those three persons, strangers to him, he answered that they were in his possession. He put them before them, and also all the other papers which were with them in his care, and permitted them to examine both at their discretion, telling them finally, that, if any of them were wanted, they should ask them of me. And could any mortal, any honest man, act with greater candor? That Sousa acted thus, appears confessed by those three persons, in the account which they gave in writing, and it is evident in the trial which they held on the same day. It is therefore seen that Sousa neither kept them concealed, nor thought of concealing them.

OBSERVATION 2.

After the delivery of the province had been made, the quadron Merced, the daughter of the deceased auditor, Vidal, asked me for those testamentary dispositions to show them to lawyers of the United States, because she wished them to inform her if there was any thing in them which she could demand. I ordered Sousa to deliver them to her, and I told her, if she found any thing for her interest, that she might take a copy at her own house, to save what the secretary might require for his trouble, and that I would afterwards compare and legalize the whole, gratis. She carried them away, and she had them in her possession on the day of my apprehension and that of my subordinate. Therefore it was impossible that Sousa, or other persons, could conceal these papers, because they were in the power of one who said that she had an interest in them. With respect to the other papers, I have already related their importance, as also that he placed them in public with the greatest frankness the first time they were asked of him.

Upon a view of the whole that precedes, which has been expressed in the utmost truth, and on an

examination also of what will afterwards appear in the returns made in writing, which corroborate and increase the others, the most scanty light of reason will be convinced that the whole is rational, that the opinion was correct of those ideas published before the people being purposely falsified, and the successive steps to appear in their color and sanction conspiring in a very fatal project against innocence.

The most favorable construction that can be given by prudence to those proceedings is, to attribute them to the effects of some lofty and frantic passion. If he assumes upon that authority an anxious desire that his name should make a noise in society, and because other opportunities did not offer in which his existence could be remembered, this excuse had been precipitated to bring him into view; for, in fact, under whatever color it was viewed, the subjecting that which, in its execution, was enforced by the shameful imprisonment, in the face of the world, of the commissary of a friendly nation, and with such impunity, finding it within the period in which he was proceeding to the execution of a stipulation of a solemn treaty of amity and settlement, is not a common occurrence, and, therefore, calls the attention of society towards the man who is capable of depending upon that.

Observations, elucidations, and circumstances, which afford proof of the nullity, illegality, and bad aspect in which the judicial operation has been viewed, which was executed by Don Andrew Jackson and his three officers against the commissary for the Spanish Government, Colonel Don Jose Callava, in the afternoon and night of the 22d day of August of the current year.

OBSERVATION 1.

The numbers 1 and 2, by which the answers begin, immediately indicate the treachery of the project, if attention be paid to the tortuosity of their commencement, and they also show that the alcalde, Brackenridge, went in that path by joint concurrence and design with Don Andrew Jackson, and not as an impartial man, in the execution of his authority. It is proved, also, because if he took Don Domingo Sousa for a private individual, he assumed in himself all the authority compared with him, if the demand of the papers was a subject of justice, and there was no necessity for that of Don Andrew Jackson; for if he had recourse to him as Governor, who had assumed the powers of the Captain General of the island of Cuba and Intendant, the alcalde knew very well that neither of them exercises judicial power by the law over private individuals. Therefore, Brackenridge, as well as Don Andrew Jackson, who took up the matter, knew that the claiming of those papers was not a subject of justice, and that it was in the political course of discharging the duties of commissaries named for the execution of the stipulation in the treaty, and that, being with Don Domingo Sousa, they depended upon my power and the proceedings subject to it; but, to pursue the project, they made a mixture of a disguised nature.

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OBSERVATION 2.

The numbers 3, 4, and 5, relate to the candor of Sousa, in having placed before the commissioners all the papers which he then had in his care, and informing them that he could not make use of them without my order, because he was subordinate, and also that they should ask them of me; therefore, they then could entertain no doubt in this case, although they had formerly pretended ignorance; but, notwithstanding, in spite of what they saw of the impossibility of their being able to conceal their knowledge, it appears in No. 6, that, without proceeding to the proof of whether what Sousa had shown them was true or not, that, upon a view of the result, they might prosecute the matter, or apply to me; that, leaving this precise path of the law and of the whole proceeding known to be regular, because it did not suit their projected mode, they returned to demand that Sousa should give them up, who, pursuing his duty in the most precise manner, insisted that they should direct their demand to me.

OBSERVATION 3.

In the 7th number Don Andrew Jackson did not address me by word or writing; he commanded my subordinate to be seized because he did not violate the confidence reposed in him by his chief. He did not hesitate to trample upon an ancient and well-deserving officer of the armies of a friendly nation; and, lastly, he confounds him with the greatest impunity and injustice, by insulting him in his person, innocence, society, and his nation.

If it is asked why Don Andrew Jackson preferred this procedure to the regular mode of addressing the Spanish commissary, the imagination, the penetration, and the prudence of man will be unable to discover the reason.

OBSERVATION 4.

In numbers 8 and 9, the officer, Don Domingo Sousa, appears already taken, and in the presence of Don Andrew Jackson, and that without my having the least notice; that he was treacherously asked to give testimony by answering with the monosyllable *yes* or *no*, (a sort of limitation unknown until now in all the laws established by men.) What he answered, or did not answer, was done from the rigor of his situation, to please the fancy of his oppressor. What he answered was written, or not written, because one only of those who surrounded him understood the Spanish language, and he, being the only interpreter and secretary, gave credit to himself, and the others did not know what was asked of Sousa, nor what he answered, nor did Sousa know what the other wrote; and, lastly, having understood that the papers had been carried to my house, he finished with him by committing his prisoner to jail. Here I omit referring to the circumstances of the papers, because I have already discussed that with truth in another place.

OBSERVATION 5.

By the 10th number, it appears for the sole fact of Sousa having said that he had carried the boxes of papers to my house before Don Andrew

Jackson asked me for them, or claimed them from me in any way, that for that simple act of going to claim them from the commissary of a friendly nation, and to claim papers of that importance, he ordered to prepare a large party of troops, and furnished them with ammunition as if it were for an action in war. But this is not the most singular thing; for its commander had to go five hours afterwards to receive orders, (five hours are mentioned, because at half-past three he made Sousa a prisoner, and that was the course he pursued.) I call attention to this circumstance for a future occasion; but I will mention by the way, that of all the occurrences with Sousa, in the morning of the 22d, and of these orders of Don Andrew Jackson I was ignorant, as I was dining at the table of Colonel H. M. Brooke, with all the Spanish officers and other persons, at a public feast which that Colonel, the most friendly of his nation and of men, had given for the sole purpose of entertaining us as Spanish soldiers, and from attention to my official situation and character; and I also was making the necessary arrangements for entertaining Don Andrew Jackson, his friends, and the officers of the United States, a few days afterwards—a satisfaction which I might have enjoyed on the day subsequent to the occurrence.

OBSERVATION 6.

In the 11th number he is seen to give the order for my imprisonment, without endeavoring to inquire the least thing of me, or making any claim, by word or writing; and this proves that Don Andrew Jackson well knew, by his own duty, that to ask papers of me from those which depended upon the obligations of my official situation, and to demand them of me with violence in a strange manner, was a natural cause why I should forbear giving them, and should require the precise method in him that I might fulfil my own duty; and thus it is that, the design being to seize me, he commanded it to be done, by giving that as a reason, before hearing or knowing any thing from me.

OBSERVATION 7.

By the 12th number, it appears that the demanding of them from me by judicial process was committed to three persons, but that, in place of the secretary, who had been present at, and acted in, the former proceedings against my subordinate, Sousa, a surgeon, named Bronaugh, was appointed, who is of the family of Don Andrew Jackson, and a man the best suited to his ideas, and subservient to them; and this exchange was certainly formed from a belief that the person and proceedings of the secretary were not suited for the deeds which ensued.

OBSERVATION 8.

In the 13th number I am seen in the presence of Don Andrew Jackson, without knowing why he brought me there, because this had been conveniently concealed, and it was also convenient to fabricate other causes. Here it is necessary that the empire of reason and of justice should display

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to the horror of mortals, the facts which may convince them of the falsehood, perfidy, and treachery of the three commissioners, and, at the same time, the authority which had induced them to such proceedings.

In the 13th number, already cited, they say "that they had been at my house, and had not found me there; but that, having returned a little after, they found me accompanied by a number of Spanish officers, dressed with their swords by their sides." What is there upon earth so sacred as not to have been insulted and profaned by creatures who, without the least shame, conceal from those who know that it cannot be concealed, all that the same persons did in the house of Colonel Brooke, and which I have related in my deposition? They also conceal my answers, and the Governor (Don Andrew Jackson) conceals the representations and entreaties which I made, by my aid-de-camp, and the interpreter, Alva; and, lastly, by the officer whom I sent with a lieutenant colonel, which he must have received. And why is that which happened in Brooke's house, in the presence of eighteen or twenty respectable persons, in the very act of meeting them at table, principally concealed? It has already been mentioned that they concealed the insult which they offered in that house to a deserving and respectable citizen of the United States, and such a concourse of persons, to whom, in every point of view, consideration was due, finding them assembled in the act of dining; and it was also concealed to introduce the paradox that the officers had on their swords. (Should they not have had them, when they were dressed in uniform, in that house, and in a becoming act, in company with their chief, and when they went from thence, accompanied by other persons, to his house, which was situated thirty or forty paces from that of Brooke?) What can be expected from men who, in the exercise of judicial proceedings, conceal, on one side, what they do with so much impudence, and, on the other, falsely fabricate criminal ideas against innocence, as will appear in continuation?

Number 13 also says "that the demand of the papers was formally made to me and refused by me." Here, also, they conceal the verbal manner in which it was made to me, and the tenor of *yes* or *no*, and come with us; and the regularity of my answer, which I do not repeat, as I have already mentioned it in my deposition.

The same number also states "that, when they informed me that my refusal would be considered as setting the authority exercised by the Governor at defiance, and they asked me again, I persisted in refusing to give them up." This relation is entirely false, and their very words show it. In the first place, they omit having any reference to my entreaties and assurances to Don Andrew Jackson, requesting him to ask them, by writing, in the regular course, and that he should immediately have them, if they were to be given to him, or the clearest explanations why they could not be given; and I do not think that this answer was a defiance to him, either as commissary or governor. But I have formally established that no

such word was ever spoken to me, nor did they expend more words upon me than those expressed in the relation; and that thirteen impartial persons were present, men of probity, and most honorable in the eye of the law.

The 13th number also says "that, upon my determined refusal to give the papers, these commissioners were about to retire, and that at that moment I declared that, if they would furnish me with a copy of the memorandum of them, I would deliver them, and that they agreed; that Brackenridge gave it me, and informed me that in two hours afterwards he would come for them."

In fact, he gave me the note which I have mentioned in the deposition; and my answer, when he brought it to me, was, *that I would have it translated, and would answer it.* That of the confession is false, and the following affords proof of it.

The 13th number likewise asserts that, at the appointed hour, they came for the papers, (and they came with a strong party of troops, sent for a seizure, with or without the papers, as will presently appear,) and here observe the proof of the forged confession; because, if they came for papers, which I had offered to give, for what purpose did they bring troops with them? for, in order to receive papers of that importance, or otherwise, there was no necessity for them; but they brought them, not to search for papers, as will hereafter appear.

Now, they likewise, in this number, confess that they also forced the house, the door of which was open; that they found me in my chamber, in bed, &c., &c.; for all the rest which it recites is so much fiction, as the circumstance of Brooke's house has been concealed, for all the act from entering into my chamber, (it was not necessary to seek for lights as they were there,) consisted in what I have related in my deposition, except that they ordered the troops to charge; and this is the truth, but it is not true that I said, even once, that they should not take me out of my house alive, for I had no idea of saying so, nor was I desirous that they should assassinate me with impunity.

It is also true that the boxes of all classes of papers were in my chamber, and the money chest. But they suppress the observation which I made to them, that, if the taking them prevented the consequences which I was persuaded were about to ensue, they should immediately have my goodwill, and the boxes, the trunks, and my whole house should be at their disposal; that they might take what they wanted; (this was said in a suppliant manner, and in the presence of several persons.) They then did not wish the papers, when they could take them away, because they were not those which they were in search of, which, if they had been, it was more in order to violate in my presence the sanctuary which kept them, because, at least, the deed left no suspicion of other cares than to violate it in my absence the following day, (and without any person to represent me,) and to take possession of my house for a whole night, because I gave place to it, especially when I left in disorder all that was within its walls. These papers were not, to appearance, concerned

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with the course of the transactions, because, in important circumstances, there appeared to be, in no case, any such foreign and clamorous necessity, but the pretext of them prevented the certain advantage of the bold attempt, as will afterwards appear.

OBSERVATION 9.

In the 14th number, the list of the papers is presented, and the 15th number relates what was done with me in the presence of the Governor, and mentions the questions which he put to me, and my answers.

It may be observed that it is not known how, in a population where, in one hour after sunset, not one solitary person was seen in the streets, Don Andrew Jackson had such great numbers of all classes and ages assembled with him, after eleven o'clock, in a very dark night; for those crowds, only knowing (as they did know) all that was resolved on, and was to be transacted on that day with the Spanish commissary, might have been assembled to observe so singular a novelty; but prudence advises that the opinion of that assemblage should be, that it originated from the outcries from the balconies, or other intimations of a similar nature, because, the commissary of a friendly nation was about to be sent to prison as an accomplice or the author of abstracting papers from certain archives; for that was the idea which passed current about the imprisonment of the officer Sousa. Let us return to the questions and answers.

It appears, in the first, that, whilst I was protesting, in order to answer afterwards, I was not permitted to come to that point; and, also, it appears that the manner of his preventing me is concealed.

In the second, it is observed that he again interrogated me as in the first, but his confining me in my answer to the bare words *yes* or *no*, is concealed.

In the third, it appears that I was accused, among other things, of being associated with individuals who had concealed papers to carry them out of the country, and that I was tried solely in the capacity of a criminal. I observe here that nothing of this interrogatory and charge was mentioned to me by the interpreter; but that these criminal motives and dishonest actions, which the Governor detailed to the public against my person, were the cause of that surprise in the surrounding people, (to which I have made reference in my deposition;) and, therefore, he appears here justified in the opinion of good men for having sent me to prison; besides, my person had been very much offended by the mouth of the Governor and the proceedings of the false interpreter.

In those proceedings (which are the only ones which have taken place) no person appears to have accused me; therefore, the Governor has falsified that to accuse me of such crimes against my honor; and against him the calumny is proved.

It is said that in my reply I declined answering, except in the manner which I considered proper

to my place, and doing it with my hand. And now it appears that, viewing me as a criminal, as a witness, or as a man interrogated in a judicial trial, I asked nothing else but the legal right of men, acknowledged in every society; but it also appears, with the trembling of humanity, that I was absolutely refused, and he was solicitous not to hear me in any way, passing, in order to avoid it, to the examination of my steward.

It may also be observed that, in the two interrogatories, they could not be changed for about two hours, which was the time in which Don Andrew Jackson addressed to me what is above related; and that all was concealed by that minister of justice, only secretary, only alcalde, and only interpreter in the whole transaction; that the other two persons and Don Andrew Jackson did not know what he asked me, or what I answered, and that he wrote what he pleased; but the most particular thing is, that my declaration being written in English, he did not read it to me, nor require me to sign it; and it was very well, for as he knew what he had written, that was all that was necessary. I shall go no further, to avoid being too diffuse, and because it does not appear to be necessary, inasmuch as I presume I have already proved all that was necessary concerning the illegality and fatal aspect of the proceeding.

In the 16th number it appears that I was sent to prison with my confidential servant. On the 18th, the quadroon, Merced Vidal, declares that the papers had been given to her, (as the deposition mentions.) On the 19th, the boxes were ordered to be broken, and their contents to be taken out, without my being present, or any person to represent me. On the 20th, they were broken; and on the 21st, I was ordered to be set at liberty, the papers, as they say, having been found in my possession in the boxes. If, therefore, they were abstracted from the archives of the alcaldes, or concealed in any other manner, maliciously, by private individuals, in order to take them out of the province, why have they not instituted a criminal suit against me?

OBSERVATION 10,

And a review of the preceding, which prove the total impossibility of the Spanish commissary having been able to avoid those scandalous events, by not meeting the project, and the steps which ensued in pursuance of it, in course of foresight, prudence, suffering, and political sacrifices.

As soon as, by the first premeditated transaction, and Sousa's consequent showing the papers, whom they knew to be the Secretary, the circumstance of their having been robbed from the archives of the alcaldes was feigned; then, although this does not appear in the transaction, because it was afterwards concealed in them, it will here produce conviction. On the foundation of said circumstance, the seizure of Sousa was commanded, when he said that I had put them in his possession, and the writ confirmed it, and then my official situation was disavowed; and an understanding with me was absolutely refused, until the

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party was ready which was to put me in prison as an abstracter of these papers, or an accomplice; because, if I delivered them to justice as a private individual, the judicial proceeding against me was secure; and if I did not deliver them, I was seized for not doing it; but, as I wished to remove that circumstance, if I were heard by writing, under any character, every effort was used to avoid hearing me, that my constancy might give way. The demanding of them from me in that manner, and under the character of a private person, was persisted in; because, if it could be obtained that I would give them up from the persuasion that I might thereby avoid confusion, and save an injury to the nation to which I belonged, and also the official correspondence, it resulted that my proceeding might belong to my official situation, might appear in accordance with that criminal and base circumstance, and then the project might be effected with greater degradation, under a better appearance and with less responsibility; so it is that, without that recourse, (which at first appears to have been adopted as a political agreement to save scandal, and the other papers,) I was set at liberty.

Here I have given the projected machination, and the extremities to which I was reduced by it, without the power of making greater sacrifices than those of stopping the torrent of my feelings, and giving an example to the agents around me of moderation, and also to a people who felt the execution of those atrocities in my person. I owe all to the nation to which as its creature I belong, and, therefore, whatever is most sacred of the dignity of man, which has been violated in me with impunity, I have sacrificed as a debt due to it.

In the proceedings the declarations have been concealed which were cunningly and perfidiously received from the persons who had been tried by the alcaldes in the investigation whether the papers had ever been in their archives, and other informations whilst I was a prisoner; and finding by the results that nothing could be obtained against me, and that now the intention, if it was to obtain possession of my papers, or to make a noise in the world, was gained, I was taken from prison, as has been seen. But previously the mandate of the judge was not obeyed, who put in execution the law of *habeas corpus* in favor of my person, because it was opposed by Don Andrew Jackson and his three creatures during those last perfidious inquiries.

The Colonel and Commissary for Spain in West Florida, under the treaty of cession,

JOSE CALLAVA.

PHILADELPHIA, Oct. 3, 1821.

A literal copy:

H. DE RIVAS Y SALMON.

B.

Testimony respecting bad Interpretation.

PENSACOLA, Aug. 24, 1821.

The undersigned, being acquainted with the English and Spanish languages, make their appearance before you. That, on the night of the twenty-

second current, they were present at the judicial act which Don Andrew Jackson, the Governor of this place held against you, and that they took special and exact notice that what you alleged in your defence, by the explanations which you made, was not faithfully interpreted; that what was interpreted of all your narrations was very little, and very imperfectly interpreted; that, likewise, in that public act your person was grievously insulted by the Governor, and that those scandalous reasons of his were not interpreted to you, leaving them therefore undisputed by you, and, consequently, he who exhibited them may be unpunished for them before justice; and, in the opinion of the by-standers, who were only acquainted with the English language, you were convicted of atrocious deeds which we know to be as foreign from you as they are peculiar to a few of the most abandoned characters. We give you this information in defence of the most sacred things, and which all men ought to protect, even when not called upon in their defence. As we swear, we are ready to prove and make appear the solemn truths which we have related. Be assured that the same interpreter will find it impossible to deny it, because the interpretation was so extremely faulty.

PEDRO DE ALBA,
SANTO COLMAN,
JUAN INNERARITY,
JOSE Y. CRUZAT,
JOSE NORIEGA,
JN. DE LA RUA.

A true copy:

H. DE RIVAS Y SALMON.

C.

Declaration of many respectable witnesses of what passed with Sousa, Fullarat, and Callava.

We, the undersigned, were present as eye and ear witnesses on the twenty-second day of the month of August, in the year one thousand eight hundred and twenty-one, at the events which we are about to express hereafter, which happened on the said day, in the city of Pensacola, and were enforced by the Governor of it, Don Andrew Jackson, against the Spanish Colonel, Don Jose Callava, ex-Governor of the same place, and commissary residing there on the part of Spain, charged on its part with the entire accomplishment of what was stipulated by the King of Spain with the President of the United States of America in the cession made to them of West Florida by the Treaty of Amity, Settlement, and Limits, which both ratified on the twenty-second of February of the same year.

Being assembled at four in the afternoon of yesterday, the twenty-second current, at table, dining with the Colonel of the troops of the fourth regiment of the United States line, Don George M. Brooke, present at the same table with his wife, and also the citizens of the same nation, Don Michael Kearney, commander of the vessel of war Enterprise, Judge Eligius Fromentin, and the said Spanish Colonel, Don Jose Callava—an

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officer of the United States presented himself, guarding the Spanish sub-Lieutenant, Don Domingo Sousa; he requesting to see the commissary, his chief, who made him enter; and in presence of all Sousa said "that they were conducting him to a prison." The commissary asked him for what cause, and he answered in the following terms:

"Sir, yesterday three American citizens came to my house, demanding of me, with authority (as they said) of the Governor, Don Andrew Jackson, that I should deliver them certain civil causes of the military jurisdiction and of the finance, which they had been told were in my possession. I had some boxes, with papers of the military tribunal and of that of the finance, which you had put under my care for their preservation, till they should be sent to the Havana with those of the secretary's office. That those papers had been put into boxes by me, and that it appeared to me that those which they sought were among them; whose knowledge I possessed, because I had spent many years in this place, under the orders of former Governors, and of you, in the office of secretary, (or evidence may now be of my presence in both courts,) and I was in the exercise of it on the 17th of July, when you delivered over the province. That I was your subaltern, subject to your immediate orders in your commission; and, therefore, without your express order, I could deliver nothing: for which reason, I represented to them that they should make their request to you. The three persons mentioned went away, and after a short space they paid me another visit, with the same demand in writing, and requiring me to answer it in the same manner. I did so; and this morning, having gone to you to communicate it, I did not find you in the house, and my mind told me to place those boxes there immediately. I carried them and placed them in your apartment, in the charge of your servant, and I gave him a message to deliver to you the moment you came in, if I did not see you before; but in a short time, I having informed you in the street, you answered me that it was well. My house was presently searched by the same three persons, and they told me that, unless I delivered the papers, I must go to prison. I answered that the boxes were in your house; and they are carrying me to prison."

The commissary, Don Jose Callava, made his aid-de-camp rise from table, and ordered him to inform the Governor, from him, that the officer, Don Domingo Sousa, was his subaltern, and dependant on his commission; that, therefore, he had the honor of acquainting him with it, and of requesting him that, if the papers which he demanded from Sousa were relative to the degree of the treaty, or other reasons connected with it, he would have the goodness to direct himself to him as now commissary, or as former Governor; because every paper of the office of Governor, or which might have relation to his commission, could be delivered by no other but himself; and that, in pursuing the regular course, and the regularity with which he had attended to harmony and concord with him, he was always disposed to

give him every accommodation. The aid-de-camp brought back for answer that Sousa was in prison, and that he should tell Colonel Callava that he would also put him into the same prison.

The Spanish commissary mentioned to those at table that his explanations had been badly interpreted to the Governor, and he ordered the same aid-de-camp to return, accompanied by another officer and the public interpreter, to acquaint him anew with the same explanations, because the reply was not a consequence of them, and might be the origin of a great mistake.

The aid-de-camp, the officer, and the public interpreter, returned, bringing the same answer; but stating that it had been given them in a loud voice, in the presence of several persons, by telling them Colonel Callava shall go to prison.

The Spanish commissary said, unmoved, yet with wonder, that he knew not to what he could attribute what he had experienced from the Governor, and insisted in the belief that some great mistake had been made in the interpretations; and stated that he would go and see the Governor when he should rise from table: but, before that time came, three persons, habited like countrymen, presented themselves in the house of Colonel Brooke, demanding, by order of the Governor, that he should immediately give up the papers which had been demanded of Sousa, and that it was unnecessary to use other modes or considerations than what might be used with any private individual.

The Spanish commissary gave them for answer that they might advise the American commissary and Governor, Don Andrew Jackson, in the first place, that it was impossible that he did not know his official situation on the part of Spain in what had been confided to him under the treaty; also, that he had received West Florida from him as the Spanish commissioner to deliver it; that he had also found him Governor in it; and how could he be ignorant that his continuance till that day, with his Secretary and other officers depending upon his commission, was waiting for the determination for which they had consulted their respective Governments about the meaning which ought to be given to the second article of the treaty, with regard to the artillery which was deposited under safeguard? And, lastly, how could he be ignorant, also, that the papers or other documents relative to the office of Governor, or which were to be delivered over by the treaty, could not be delivered to any one by him under the simple character of a private individual, because they had not thus come into his possession, nor yet had they been deposited in his care as a private individual? that he was surprised at what was then going on; that his papers were sacred and protected in Pensacola, along with his person, under the immunity of the law of nations, which has always been so protected, defended, and respected, between civilized nations, in respect to the individuals of each other mutually commissioned by them with the charges of their respective Governments; that, nevertheless, he knew not what the papers were, ordered to be delivered in that way; that he repeated the request for the

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third time to the Governor and Commissioner, Don Andrew Jackson, that he might be the better informed, according to his official situation, and in conformity with the peace and harmony reigning between Spain and the United States and their respective citizens—a peace and harmony which had always been so much respected and observed with particular consideration by the Spanish commissary to Don Andrew Jackson, as an individual of the United States, as well as commissary on their part, and as Governor of West Florida; and had been also constantly observed by Governor Callava (when he was so) to all the citizens of the United States, indiscriminately, and who had arrived in West Florida in the time of his government; that Don Andrew Jackson might be sure, both as commissary of the United States, and as Governor of Pensacola, that whatever papers were to be delivered to him on that day would be facilitated to him immediately by the proper course which they ought to pursue in the regular execution of both their duties.

The commissioners went away with very little good-will, and the Spanish commissary told the by-standers that he felt himself attacked with a deadly pain which he suffered, and that they would permit him to retire to his house, which he did, accompanied by them.

Immediately on his arrival, he caused his secretary to extend an official letter to the Governor, making in it all the explanations which have been related, and its contents were read to those who accompanied him, and he delivered it to a Spanish Lieutenant Colonel, requesting that, accompanied with another officer, he would deliver it to the Governor, Don Andrew Jackson; which gentleman would not receive it, after the greatest entreaties of the bearers, according to the information given by them when they returned with it and delivered it to the commissary, who was indisposed; and about seven in the evening those same three persons came to his house, requesting that he would deliver the papers as a private individual, or that he would accompany them to the house of the Governor. He answered them that his health at that time would not permit him to go into the street; that the papers, of the nature of which he was still ignorant, could not be delivered in any other way than as claimed from the Spanish commissary under the treaty, or as from the Governor, the functions whereof he had exercised; because, being in boxes, (as was mentioned,) they must necessarily belong directly, either to the office of Governor, or else to the financial or military branch; whatever civil papers were in the ordinary court having been delivered by the constitutional alcalde, and also the registers, to the United States commissary, Don Andrew Jackson; but yet they should, at least, inform him in writing what class of papers those which they demanded belonged to, as they had hitherto demanded of him papers without his knowing what they were.

The three persons went on, and about an hour afterwards, one of them returned with a half sheet of paper written in the English language, and told the Spanish commissary that in it were men-

tioned the papers; that they were ordered to deliver it to him precisely as to a private individual, and that he was recognised in no other light.

The Spanish commissary answered that, after the paper had been translated, he would read and answer it. Upon this, the person who had brought it went away, and he immediately ordered it to be translated by the interpreter. He threw himself upon the bed; and a while afterwards, having found some rest, a large party of troops, commanded by an officer, and under the orders of the same three persons, because they found the principal door shut, scaled the house, breaking the fence; some soldiers, with drawn bayonets in their hands, entered the chamber, and the three persons with them. He sat up in the bed, and, directing his discourse to one of the three who acted as interpreter, said: "Now that the asylum of my house is of no avail to me as a man and a citizen; that the official situation which I have in West Florida, for Spain, is also of no avail to me; nor the character of my office, nor the asylum of the immunity which I possess in the territory of the United States, by its laws and by the rights of nations, I throw myself upon their Government, and solemnly protest, before God, before this very Government, and before men, against the author of such great violations of justice."

One of the commissioners answered that he came with express orders from Governor Don Andrew Jackson to demand of him in that act that he should deliver to him the papers already mentioned in the note, or to bring him prisoner by force; and for that produced his orders.

The Spanish commissary answered that the note had been given to the interpreter to be translated, and that it had not yet come; that he was unwell; and how could he attempt to take him from his house at that hour? but if he could avoid the execution of any similar acts only at the expense of the three persons opening the trunks and boxes of the Spanish commissary, and taking from them those papers which they demanded, or what they deemed proper, that he was ready to yield to force, and that there they had the whole at their disposal. The answer which he received was, that one of the three persons entered into the chamber to the officer who commanded the troops, and the citizen Don Juan Innerarity (who speaks English) seeing the threatening act, it appeared to him that the explanation of the Spanish commissary had been wrongly interpreted, and he wished to mention it; but, upon his beginning to speak, he was commanded, with great menacing, by one of the three, to be silent; and the officer of the troops was ordered to intimate to the Spanish commissary that he might deliver himself up prisoner to an armed force. The said officer did so, and the Spanish commissary answered that he surrendered himself prisoner, but represented to him that he was sick. He answered that he was understood; he ordered him to dress and put on his coat, and in this manner he was conducted by the troops to a house in which, with a great assemblage of all classes, was Governor Don Andrew Jackson; when, by the alcalde, who acted in this business as secretary and

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interpreter by turns, an interrogatory was extended in writing, which the Governor dictated, and the Spanish commissary was required to answer it. He answered that he would do it immediately, but with his own hand, and in his own language, at the foot of the interrogation. This was readily granted; but, whilst he was extending it, he was forbidden to continue what he had scarcely begun.

The Governor, Don Andrew Jackson, with turbulent and violent actions, with disjointed reasonings, blows on the table, his mouth foaming, and possessed with the furies, told the Spanish commissary to deliver the papers as a private individual; and the Spanish commissary, with the most forcible expressions, answered him that he was convinced that he did not resist the delivery of papers, because he still did not know what papers were demanded of him; that, as soon as he could know it, if they were to be delivered, he would deliver them most cheerfully; and that, if papers were demanded of him which he ought not to deliver, he would resist it by the regular and prescribed means; that all these questions were not put to him in writing; that his answers were the same as he had given to every interrogatory which had been put to him, because he was not permitted to write it in his own defence; and, also, that he would answer for the future constancy of it, as well as what had been asked of him, and all that had been done to him; that he wished for this protection of the law to every man; that he would never yield.

The Governor, Don Andrew Jackson, furious, did not permit the interpreter to translate what the Spanish commissary answered, that the bystanders, it appears, might not understand it; and the interpreter made such short translations that, what the Spanish commissary took two minutes to explain, he reduced to only two words; and that when the Governor gave him time enough, (and as has been since related by various persons, who spoke both languages, of what the Spanish commissary said,) not even half was interpreted, and that little not faithfully. Lastly, the Governor, Don Andrew Jackson, after having insulted the Spanish commissary with atrocious words, took out an order, already written, and made the interpreter read it; and it contained the order for his imprisonment.

The Spanish commissary said that he obeyed it, but asked if the Governor, Don Andrew Jackson, was not afraid to put in execution deeds so unjust against a man like him; and, rising to his feet, he addressed himself to the secretary, whom the Governor kept on his right hand, and said, in a loud voice, that he protested solemnly, before the Government of the United States, against the author of the violations of justice against his person and public character.

The Governor, Don Andrew Jackson, answered to the protest, that for his actions he was responsible to no other than to his Government, and that it was of little importance to him whatever might be the result, and that he might even protest before God himself.

The Spanish commissary was committed to the

armed force, and put in prison at twelve at night; his house was left open, with some soldiers in it; the keys of his trunks were not taken away; all his papers were left at discretion, and also his money, and what he had by his commission belonging to his nation; none of his officers nor any person of confidence were permitted to remain in the house; his steward also was taken at the same time.

At eleven in the morning of this day, several of the undersigned went to the United States judge, Don Eligius Fromentin, soliciting a writ of *habeas corpus* to liberate the person of the Spanish commissary, Colonel Don Jose Callava, which was duly issued; but the Governor, Don Andrew Jackson, despised the said writ, and replied that it was not proper to carry it into effect.

The relation which we have given is what we were present at; is exactly the most sacred truth, and, therefore, we solemnly swear to it, that it may be for the defence of law and justice wherever the knowledge of it may come. Pensacola, August 23, 1821.

Signed Marcos de Villiers; Lieutenant Colonel Santiago Colman; Juan Innerarity; Carlos de Villiers; Jose Y. Cruzat; Captain Luis Guayare; Lieutenant Arnaldo Guillemard; Captain B. Prieto; Jose Noriega; Sub-lieutenant Mariano Latady, with the exception of having been absent about half an hour in the beginning; J. De la Rua; Pedro de Alba, with the exception of having been present a part, and not the whole; Pedro de Alba, with the same exception as the former witnesses; Pedro de Vegas, Sub-lieutenant.

H. DE RIVAS Y SALMON.

D.

[Documents relating to the arrest of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat.]

From H. M. Brackenridge, Alcalde, to His Excellency the Governor.

PENSACOLA, August 21, 1821.

I learn from the most satisfactory evidence that a number of documents relating to estates in this place, and to suits instituted here, are in possession of an individual of the name of Domingo Sousa; these papers properly belong to this office, but were not included in the inventory delivered by the late Governor. Some of the circumstances attending the affair are of a very peculiar nature; but, as the necessity of obtaining possession of the documents is urgent, I must defer making a report respecting them to some other period. At present, I must request your Excellency to authorize some one to make a regular demand of the said documents, and to ascertain precisely what they are. I am, respectfully, &c.

His Excellency the Governor to Messrs. Walton, Brackenridge, and Miller.

OFFICE OF THE EXECUTIVE,

PENSACOLA, August 21, 1821.

GENTLEMEN: Having been officially informed that there are a number of papers or documents

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in the possession of an individual of the name of Domingo Sousa, of a public nature, and which belong to the office of the alcalde of this town, although not delivered with the other documents relating to private property, you are hereby authorized and instructed to proceed to the dwelling of the said Domingo Sousa, and to make a demand of all such papers or documents as may be in his possession. In case the said Sousa should refuse to exhibit and deliver the same, you will immediately report the fact to me in writing.

ANDREW JACKSON,
Governor of the Floridas, &c.

From the Commissioners, Messrs. Walton, Brackenridge, and Miller, to His Excellency the Governor.

PENSACOLA, August 22, 1821.

SIR: At an early hour yesterday morning we repaired to the dwelling of Domingo Sousa, and explained to him the object of our visit, and the authority with which we were clothed. He immediately produced two boxes, containing papers, declaring that they belonged to the military tribunal and to the revenue of Spain. On examining the said papers, it appeared that, with a few exceptions, they related to courts-martial, and to personal disputes between officers and soldiers, cognizable by the military tribunals. But the following papers *we conceive* to be of a different nature: the proceedings relating to the estate of Nicolas Maria Vidal, formerly Auditor of War of this province, and whose heirs reside in this place. They relate to property and claims in this country; and whatever the Spanish laws may be on the subject of the military privilege by which the military courts have sole cognizance in all cases where persons of that profession are in any way interested, yet in this case the persons now interested have nothing to do with the Spanish Government. Another package contains the papers in the case of Peter Guilkes against Thomas Villaseca, which relate to real property that has passed into other hands. There are, also, the papers in the case of Manuel Bonfay against Carlos de Ville, relating to a lot of ground in Pensacola; also, the proceedings between Carlos de Ville and Eugene Sierra, relating to real property here, and in which other parties are now interested. These are all the papers *we conceive* important to the inhabitants here, excepting some cases of admiralty jurisdiction, and one as late as 1813, but which appear to be principally copies, the originals having been sent to Havana. After having examined the whole of the papers in the possession of the said Sousa, we made a demand of the foregoing, but he refused to deliver them, declaring that he was merely the servant of the late Governor Callava, who had placed them in his hands, and that, without an order from him, they could not be given to us. We then made a formal demand in writing, and which is annexed to this report; and the same evening we received his answer, hereto annexed. We then prepared the annexed letter for the 22d; but when presented to him by Colonel Miller and H. M. Bracken-

ridge, he declined receiving it, stating that he had no control over the papers; that Colonel Callava was the person of whom they must be demanded; and therefore refused to receive any letter from them. He further stated that he had communicated the demand to Colonel Callava, who told him to answer by simply stating that he was subordinate to *his* (Callava's) orders. He said that, in order to relieve himself from the responsibility of keeping the papers, he was about to deliver them to the late Governor.

GEORGE WALTON,
H. M. BRACKENRIDGE,
JOHN MILLER.

His Exc'y ANDREW JACKSON, &c.

From Messrs. Walton, Brackenridge, and Miller to Mr. Sousa, (referred to in the above report.)

PENSACOLA, August 21, 1821.

SIR: We have this day been authorized and instructed by His Excellency General Andrew Jackson, Governor of the Floridas, to require of you to deliver up certain public documents, which no private individual has a right to keep, as they relate to the rights of persons holding or claiming property in this province. Among those papers it is believed there are the documents relating to the estate of Don Nicolas Vidal, whose heirs are interested in the same; also, the papers relating to a house and lot in Pensacola, which was the subject of a proceeding between Manuel Bonfay and Carlos de Ville; also, Carlos de Ville and Eugene Sierra, relating to a piece of ground in this place; and, also, the documents in the case of Peter Guilkes and Tomas Villaseca, relating to real property in Pensacola. In pursuance of our instruction, we therefore make a formal demand of the foregoing, and all other papers which relate directly to the right of private property in West Florida, and in which the inhabitants thereof are interested.

GEORGE WALTON,
Secretary of West Florida.
H. M. BRACKENRIDGE,
JOHN MILLER.

DON DOMINGO SOUSA.

Mr. Sousa to Messrs. Walton, Brackenridge, and Miller, (also referred to in their report.)

MESSRS. ALCALDE AND SECRETARIES: I am a Spanish officer, staying at present in Pensacola, and subject by my commission to the orders of the late Governor of this place, Don Sor. Callava; consequently, I have not under my charge, in quality of a private individual of this town, any papers which I am bound to deliver to you, in compliance with your request. It is a positive fact that I have exercised the functions of assistant witness (*testigo de asistencia*) for the suits in the courts of war and revenue in Pensacola, and under the Spanish Government; and that there are in my sole keeping, boxed up, some of those papers intrusted to my care by the above-named Governor, for their preservation. This is all I have to com-

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municate to you in answer to the letter which you have been pleased to address me to-day.

God preserve you many years.

DOMINGO SOUSA.

A correct translation:

E. A. RUTLEDGE,
Translator Spanish language.

Messrs. Walton, Brackenridge, and Miller, to Mr. Sousa.

PENSACOLA, August 22, 1821.

SIR: Your note in reply to our demand of yesterday has been received. You are in the exercise of no civil functions under the existing Government: we, therefore, can only regard you as a private person. We do not claim any papers in your possession, or in that of any other, relating to the military tribunals, or to the revenue of the Spanish Government; but we are certain that no individual, no matter what office he may have held under the Spanish Government, has any right to retain possession of archives or documents which relate directly to the sovereignty of this province; and no reason can be given why such papers as concern property in this country, and which may be necessary to establish titles or assert the rights of individuals, should be withheld from the officer now authorized to take charge of them. We again make a positive demand of the papers mentioned in our note of yesterday, to wit, the documents in the case of Don Nicolas Maria Vidal; the proceedings in the case of Carlos de Ville and Eugene Sierra; also a proceeding between Manuel Bonfay and Carlos de Ville; and the documents in the case of Peter Guilkes and Tomas Villaseca. These papers are known to be in your possession, and we demand to know by whose authority, as no person whatever has any right to authorize you to detain them.

**GEORGE WALTON,
H. M. BRACKENRIDGE,
JOHN MILLER.**

Don DOMINGO SOUSA.

NOTE.—This letter was handed to the above-named Domingo Sousa by the undersigned, and the said Sousa refused to receive the same.

**H. M. BRACKENRIDGE,
JOHN MILLER.**

His Excellency the Governor to Messrs. Miller and Butler.

**OFFICE OF THE EXECUTIVE,
Pensacola, August 22, 1821.**

It being made known to me, by the report of Colonel George Walton, secretary of West Florida, H. M. Brackenridge, alcalde for the city of Pensacola, and Colonel John Miller, clerk of the county court for the county of Escambia, duly authorized and appointed by me to make demand for and to receive the following documents and archives, claimed to appertain and belong to the following persons, as evidence of their real and personal rights, which are guaranteed to them by and under the second article of the late treaty with

Spain, and which are represented to be in the possession of Domingo Sousa, who states that these documents and papers have been placed in his charge and care by the late Governor of West Florida, Don Jose Callava, that is to say: 1st; the documents relating to the estate of Nicolas Maria Vidal; 2d, the documents in the proceedings between Carlos de Ville and Eugene Sierra; 3d, the documents in the case of Manuel Bonfay, and Carlos de Ville; 4th, documents in the proceedings in the case of Peter Guilkes against Tomas Villaseca.

Colonel Robert Butler, of the Army of the United States, and Colonel John Miller, clerk of the county of Escambia, are hereby commanded forthwith to proceed to seize the body of the said Domingo Sousa, together with the said papers, and bring him and them before me at my office, immediately, to the end that he then and there answer such interrogatories as may be put to him, and to comply with such order and decree touching the said documents and records as the rights of the individuals, secured to them by and under the second article of the treaty with Spain, concluded at Washington the 22d day of February, 1819, and ratified on the corresponding day of 1821, may require, and the justice of the case demand.

Given under my hand, at Pensacola, this 22d day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas.

Return of Colonels Butler and Miller to the above.

PENSACOLA, August 22, 1821.

We have the honor to report that we proceeded to the house of the within-named Domingo Sousa, and found that the papers referred to had been by him taken, through the aid of a negro, (as he reports,) to the house of Don Jose Callava, late Governor. The body of Domingo Sousa is herewith presented to you.

We have the honor to be, very respectfully, your most obedient servants,

**ROBT. BUTLER,
JOHN MILLER.**

Examination of Domingo Sousa.

**OFFICE OF THE EXECUTIVE,
Pensacola, August 22, 1821.**

Present: His Excellency the Governor.

Question 1. Were you not in possession on yesterday and this morning of the following papers—that is to say, the documents relating to the estate of Nicolas Maria Vidal?

Answer. Yes.

Question 2. Had you or had you not in the same manner, at the same time, in your possession the papers in the case of Carlos de Ville and Eugene Sierra, relative to property in this province?

Answer. Yes.

Question 3. Had you in your possession, in like manner and time, the proceedings in the case of Manuel Bonfay and Carlos de Ville, relating to property in this province?

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Answer. Yes.

Question 4. Had you in your possession, in like manner and time, the proceedings in the case of Peter Guilkes against Tomas Villaseca, relating to property in Pensacola?

Answer. Yes.

Question 5. Whether the documents and papers in all the above cases do not relate to private property in this province?

Answer. That the estate of Vidal is at Baton Rouge, but that the heirs are here.

Question 6. Is not the case of Carlos de Ville and Eugene Sierra on the subject of a piece of ground in this place?

Answer. Yes.

Question 7. Is not the case of Bonfay and De Ville relative to a piece of ground in this place?

Answer. It relates to the same piece as that of De Ville and Sierra.

Question 8. Is not the case of Guilkes and Villaseca in relation to property in this place?

Answer. That cause related to a piece of property in Pensacola.

Question 9. When and by whom were those papers placed in your possession?

Answer. That these papers were placed in his possession at the time of the adoption of the constitution, when the civil functions were distributed to the alcalde; that this was better than a year ago.

Question 10. Did you ever act as civil alcalde of Pensacola?

Answer. No; that he was a clerk or witness of asistencia.

Question 11. Who was alcalde at the time of your obtaining possession of the papers?

Answer. Don Jose Noriega.

Question 12. Did not all papers appertaining to the right of individuals, and relating to suits before the alcalde, belong to his office?

Answer. Yes; all that were of a civil nature, and all such have been delivered, but not the military papers.

Question 13. At what time this morning were the papers which had been demanded of you delivered by you, to whose order, and through what channel?

Answer. That, after the demand had been made by Colonel Walton, the alcalde, and Colonel Miller, now present, he went to Colonel Callava, and stated that he wished to free himself from the responsibility of keeping them, and that he this morning, at eleven o'clock, had them carried to Governor Callava's house by a negro belonging to Manuel Domingo, and there delivered to Fullarat, the major domo of the Governor.

Question 14. When you stated that you wished to free yourself from the responsibility of keeping the papers, what was the reply of Colonel Callava?

Answer. He said nothing.

Question 15. Do you know that Governor Callava received possession of the papers?

Answer. He does not know positively whether the Governor has received them or not. That he went with the negro, and the papers were left at

the house: there was no person there but the major domo, in whose charge they were left.

DOMINGO SOUSA.

Order to Colonel Brooke.

PENSACOLA, August 22, 1821.

SIR: You will furnish an officer, sergeant, corporal, and twenty men, and direct the officer to call on me by half-past 8 o'clock for orders: they will have their arms and accoutrements complete, with twelve rounds of ammunition.

Respectfully, your obedient servant,

ANDREW JACKSON,

Governor of the Floridas, &c.

Colonel G. M. BROOKE,

Commanding 4th Infantry.

Order to Lieutenant Mountz.

PENSACOLA, August 22, 1821.

SIR: Should Colonel Callava and his steward refuse to deliver the documents which will be required of them by Colonel Butler and Doctor Bronaugh, and on the report of Colonel Butler to you of their refusal, you will immediately take the said Colonel Callava and his steward (Fullarat) into custody, and bring them before me, to answer such interrogatories as are required by the circumstances attending the case.

Very respectfully your obedient servant,

ANDREW JACKSON.

Lieut. MOUNTZ, *Officer of the Guard.*

Order to Colonel Butler and Doctor Bronaugh.

OFFICE OF THE EXECUTIVE,

Pensacola, August 22, 1821.

It being made known to me, by the confession of Domingo Sousa, that the papers named in the petition of Henry M. Brackenridge, alcalde of the city of Pensacola, and which were demanded under my orders as the property of private individuals, by Colonel George Walton, secretary for West Florida, Colonel John Miller, clerk of the county court of Escambia, and Henry M. Brackenridge, alcalde for the city of Pensacola, were, after said demand in pursuance of my orders as aforesaid was made, by the said Domingo Sousa and a negro man, carried this day to the house of the late Governor, Don Jose Callava, and delivered the said documents and papers into the possession of his steward, named Fullarat, Colonel Robert Butler, of the Army of the United States, and Dr. J. C. Bronaugh, accompanied by Henry M. Brackenridge, Esq., alcalde for the city of Pensacola, will wait upon Colonel Don Jose Callava, and his steward, named Fullarat, and demand from them the following papers this day delivered to the said Fullarat, at the house of the said Colonel Callava, by the said Domingo Sousa, that is to say: first, the documents and papers relating to the estate of Nicolas Maria Vidal; second, the documents in the proceedings between Carlos de Ville and Eugene Sierra; third, the documents and papers in the case of Manuel Bonfay and

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Carlos de Ville; fourth, documents and papers in the proceedings in the case of Peter Guilkes against Tomas Villaseca; all which documents and papers are acknowledged to be the property of individuals, and appertaining to their rights, and which are secured to them by and under the second article of the Treaty with Spain, concluded at the city of Washington on the 22d day of February, 1819, and ratified on the corresponding day of 1821, and must remain for the protection of the rights and property of the said individuals; and no officer of Spain can rightfully take them away, or keep them from the office of the duly appointed alcalde for the city of Pensacola. It is further ordered that, if the said late Governor, Don Jose Callava, or his steward, Fullarat, when the above-described papers are demanded of them, should fail or refuse to deliver the same, the said Don Jose Callava and his steward (Fullarat) be forthwith brought before me, at my office, then and there to answer such interrogatories as may be put to them of and concerning the premises, and to abide by and perform such order and decree, touching the said documents and papers secured to them as aforesaid, as the justice of the case may demand.

ANDREW JACKSON,
Governor of the Floridas.

Report of Messrs. Butler and Bronaugh.

PENSACOLA, August 22, 1821.

SIR: Pursuant to your official order bearing this date, we proceeded to the house of Colonel Callava, who was absent; but again returning to his house shortly after, we found him, accompanied by a number of Spanish officers, clothed with their side-arms, and Mr. John Innerarity in the porch; the demand was formally made of the documents enumerated in your order, and peremptorily refused; when he was informed that his refusal would be considered as setting at defiance the authority exercised by you as Governor of the Floridas, in the execution of the laws, and they were again demanded, and the consequences of refusal on her part enumerated, but in which refusal he still persisted; and we were about taking our leave to prepare for the final execution of your order, when Colonel Callava declared that, if we would furnish him with a copy of the memorandum of the documents required, he would deliver them to us; to which we assented. The alcalde, H. M. Brackenridge, accordingly waited on him with a copy of the memorandum herewith accompanied, and informed him that he would call in two hours for the reception of the documents as promised. We proceeded at the appointed time, and found the gate and front part of the house closed; the former we opened by removing a bar, and, on reaching the latter, a considerable stir seemed to be making in the house; we knocked some time without receiving any answer, when admittance was demanded in the name of the Governor in three instances, still without reply; the guard was then ordered to advance and form in the front of the house, and part detached to the rear, when it was discovered that the back door was open, and

several Spanish officers, with Mr. Innerarity, (who is one of your cabildo,) were on the porch. We inquired for Colonel Callava, to which we were answered, they did not know where he was; lights were procured and the rooms searched, when Colonel Callava was found in his bed, divested of his coat. Demand was then made of the documents, agreeably to his promise, and to our astonishment they were still refused, and several attempts made on his part to show that he was not amenable to the laws; to which he was answered, that the Governor was, in the execution of the laws, bound to demand the papers, as they appertained to the rights and property of individuals resident in Pensacola, and that formal complaints had been made that they were improperly withheld, and that the Governor knew no distinction between Colonel Callava and any other man under his government. We then proposed that Colonel Callava would deliver the papers, and he should have our receipt for them, which was also refused; we then again demanded them, reiterating our sentiments that his refusal would be received as an act of open mutiny to the civil authority exercised in the Floridas, and that he must expect the consequences. He persisted to refuse, and the officer of the guard was ordered to take him and Fullarat into custody, and bring them before your Excellency, which is now done. We would add, in conclusion, that Colonel Callava repeatedly asserted that he would not be taken out of his house alive; but he seemed to act without much difficulty when the guard was ordered to prime and load. A corporal and three men were detached to remain as guard in the house of Colonel Callava, and to prevent the removal of the boxes which had contained the documents, and which Mr. Brackenridge recognised in the bedroom. From the relation in which Mr. Innerarity stands in this business, together with the interest taken on the side of Colonel Callava, and at the same time exercising the functions of one of the cabildo of this city, we deem it an indispensable duty to recommend that your Excellency will fill his place in the council with a character who will manifest a proper respect for the dignity of the laws, and you their Executive.

We have the honor to be, &c.

ROBERT BUTLER,
Colonel U. S. Army.
J. C. BRONAUGH.

[Memorandum referred to in the above report.]

Memorandum of the documents which have been demanded of Colonel Jose Callava, agreeably to the order of his excellency Major General Andrew Jackson, Governor of the Floridas, and which, on the demand of Colonel Robert Butler and J. C. Bronaugh, accompanied by H. M. Brackenridge, Colonel Callava promised to deliver to Colonel Butler, if they should be found in the boxes delivered to him by Domingo Sousa.

1. The papers relating to the estate of Jose Maria Vidal.

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2. Proceedings in the case of Carlos de Ville and Eugene Sierra.

3. Proceedings in the case of Manuel Bonfay and Carlos de Ville.

4. Documents in the case of Peter Guilkes and Tomas Villaseca.

The whole of the above papers having relation to the rights of property in West Florida, and in which private individuals are interested.

H. M. BRACKENRIDGE, *Alcalde.*

PENSACOLA, August 22, 1821.

Minutes of the examination of Colonel Callava and Fullarat.

OFFICE OF THE EXECUTIVE,
Pensacola, August 22, 1821.

Colonel Jose Callava, being brought before Andrew Jackson, Governor of the Floridas, to answer certain interrogations relative to documents and papers named in a schedule bearing this date, and which relate to the property and sovereignty of the Floridas, the following interrogatories were put to him, viz :

Question 1. Were or were not the papers mentioned in a schedule handed to you by H. M. Brackenridge, alcalde of the city of Pensacola, delivered by Domingo Sousa at your house this day to Antoine Fullarat, your major domo; and, if so, at what time of the day?

Answer. [Translated.] I say that I solemnly protest against the act, which, at ten, in the middle of the night, took me from my bed, where I was sick, although I consider myself as Spanish commissioner, appointed by the Spanish Government, under the treaty recently concluded between the said Government and that of the United States for the cession of the Floridas, which commission has been conf—. [Here the Governor stopped Colonel Callava, and directed the following question to be put to him:]

Did or did not Domingo Sousa deliver at your house this day the papers above mentioned; and, if so, where are those papers now?—and answer this directly.

Answer. That he declines answering, except in the manner he considers proper—in his own language, and with his own hand.

The question being repeated, he answered that he was here as a commissioner, and could not answer in any other capacity; on which he was informed by the Governor that he could not view him as a commissioner, or in any other light than as a private individual charged with refusing to surrender papers which belong to the public archives of this province, and with being connected with individuals charged with being about to secrete papers and to carry them out of the country, by which the inhabitants thereof would be deprived of their evidence of property, and which, under the second article of the treaty with Spain, ought to have been delivered with the other papers placed in the charge of the alcalde for safe-keeping. The question being again repeated, he refused to answer, except in the manner before stated.

Interrogatories put to Antoine Fullarat.

Question 1. What is your name and age?

Answer. My name is Antoine Fullarat. I do not know my age.

Question 2. Did not Domingo Sousa deliver to you this day some papers in boxes at the house of Colonel Jose Callava?

Answer. Yes.

Question 3. Where are the papers now?

Answer. They are at the house of Colonel Callava.

Question 4. In whose possession are they?

Answer. They are now in Colonel Callava's house.

Question 5. At what time of this day were they delivered by Domingo Sousa?

Answer. He does not recollect.

Question 6. Are not you the major domo of Colonel Callava?

Answer. Yes.

I do hereby certify the foregoing to be a correct minute of the examination before Andrew Jackson, Governor of the Floridas, at which I acted as clerk and interpreter.

H. M. BRACKENRIDGE.

Order for the imprisonment of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat.

OFFICE OF THE EXECUTIVE,
Pensacola, Aug. 22, 1821.

WEST FLORIDA, }
Pensacola. }

TO THE OFFICER OF THE DAY:

You will take into custody, and safely keep, Domingo Sousa, until he produces, or causes to be produced and delivered, unto Henry M. Brackenridge, alcalde of Pensacola, the following documents and papers, viz: Those relating to the estate of Don Nicholas Maria Vidal; also, the papers relating to a house and lot in Pensacola, which was the subject of a proceeding between Carlos de Ville and Eugene Sierra; also, the proceedings which took place between Manuel Bonfay and Carlos de Ville, relating to a piece of ground in this place; and also the documents in the case of Peter Guilkes and Tomas Villaseca, relating to real property in Pensacola: all which documents and papers appear to appertain to individuals and their rights, and for their benefit ought to be in the possession of H. M. Brackenridge, alcalde of the city of Pensacola, and not to be taken away by the officers of Spain; and which documents and papers were seen by Col. George Walton, Col. John Miller, and H. M. Brackenridge, alcalde, in the possession of the said Domingo Sousa on the 21st inst., and demanded by the said alcalde to be delivered to him, the said alcalde, under the written order of the undersigned given for that purpose, and the said documents and papers to be retained by the said alcalde for safe-keeping; on which the said Domingo Sousa refused to deliver the same, but, in open violation of the above-recited order and demand, did convey the said documents and papers to the house of Colonel Jose

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Callava, late Spanish Governor of the province of West Florida, and left in the hands of the said Colonel Callava's steward, by name Fullarat, in the dwelling-house of the said Colonel Callava. All which acts aforesaid of the said Domingo Sousa are in open contempt of the authority of the undersigned, as Governor of the Floridas, &c., and in open violation of the rights of the citizens, secured to them under the second article of the late treaty with Spain; for all which, and until he, the said Domingo Sousa, complies with the foregoing order, by delivering the aforesaid enumerated documents and papers, he is to stand committed to the calaboose.

Given under my hand this 22d day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas, &c.

To Capt. DABE, *Officer of the Day* :

You will take into custody and safely keep Don Jose Callava, and his steward, (Fullarat,) until the documents and papers recited in the order annexed for the arrest of Domingo Sousa are produced and delivered unto H. M. Brackenridge, alcalde of the city of Pensacola.

Given under my hand, this 22d day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas.

H. M. Brackenridge, *Alcalde, to His Excellency the Governor.*

PENSACOLA, August 23, 1821.

SIR: Having strong grounds to believe that the documents and papers claimed by me as appertaining to the archives of this province, and directly relating to the property and sovereignty of the same, are now in the house of Don Jose Callava, but enclosed in boxes, I beg leave to request that authority may be given to such persons as your Excellency may appoint to open and examine the said boxes, and to report thereon. From the examination of Domingo Sousa and Antoine Fullarat, and the affidavit hereto annexed of Merced Vidal, there can be no doubt but that the said documents were delivered in the boxes before mentioned to the said Callava, at his house, and are in his possession. The documents demanded are as follow:

1. Papers relating to the estate of Jose Maria Vidal.
2. Proceedings in the case of Carlos de Ville and Eugene Sierra.
3. Proceedings in the case of Manuel Bonfay and Carlos de Ville.
4. Documents in the case of Peter Guilkes and Tomas Villaseca.

H. M. BRACKENRIDGE, *Alcalde.*

Affidavit of Merced Vidal.

Before me, H. M. Brackenridge, alcalde of Pensacola, personally appeared Merced Vidal Pardo, who, being of full age, and being duly

sworn, deposeth and saith: That her father, Nicolas Maria Vidal, left her by will one of his heirs, and that he died about the year 1806, possessed of a large real and personal estate in Florida and Louisiana. The deponent further saith that the will of her said father, together with the inventories of his real and personal estate, and all the papers relating thereto, were for several years missing from the public archives of Pensacola, having been, by some person unknown, withdrawn from the same; that repeated solicitations were made by her to the authorities then existing here to compel the restoration of the said papers and documents, as they were, and she believes still are, necessary to enable her to prosecute her claim under the said will; that a certain John Innerarity, of this place, whom this deponent believes to be a debtor to the said estate to a large amount, was decreed to restore the said papers if in his possession; that the said papers were finally restored, and that a decree was passed against the said Innerarity to account with the deponent as one of the heirs of Nicolas Maria Vidal. The deponent further states that, a few days before the change of government, she demanded them of Colonel Callava, who informed her that he could not give them up, as he was obliged to take them to Havana. The deponent afterwards requested permission to make a copy of them; that this was granted by said Callava, on condition that they should only be delivered by separate pieces on parcels, and that a confidential person should be found to copy them; but the deponent says that the expense of copying them exceeds her means, they amount in all to several hundred pages of common writing paper. The deponent afterwards learned that the said papers were in the actual possession of Domingo Sousa, who acknowledged the same, and delivered three pieces to her for the purpose of being copied. The deponent further states that the said papers relate to property in this country and Louisiana, and were necessary in order to enable her to prosecute her claims under the will of her father.

MERCEDES VIDAL.

Sworn and subscribed to before me, this 23d day of August, 1821,

H. M. BRACKENRIDGE, *Alcalde.*

Search Warrant.

OFFICE OF THE EXECUTIVE,
Pensacola, August 23, 1821.

Agreeably to the petition of H. M. Brackenridge, alcalde of the city of Pensacola, hereto annexed, and the affidavit of Merced Vidal, relating that she has reason to believe, from what Colonel Jose Callava has told her, that those papers would be taken to Havana: and whereas Domingo Sousa, in his declaration before me, the undersigned, on the 22d instant, declared that he, the said Domingo Sousa, in open violation and contempt of my order requiring that he should deliver the documents and papers named in the annexed petition of H. M. Brackenridge, alcalde for the city of Pensacola, had delivered them to Antoine Fullarat, the steward of Colonel Jose Callava, and in the house of the

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said Callava: and whereas an order was issued by the undersigned, on said declaration of the said Domingo Sousa, that a demand should be made to Colonel Jose Callava, and his steward Fullarat, that they deliver said papers agreeably to a schedule delivered by Colonel Robert Butler, of the Army of the United States, and Dr. J. C. Bronaugh, accompanied by the said alcalde for the city of Pensacola, who proceeded and made a demand of the aforesaid papers, which Colonel Callava refused to deliver, on which an order was made to bring the said Callava and Fullarat before me, to answer such interrogatories as might be put to them, &c.; this order being executed, and the said parties before me, Colonel Callava having declined answering interrogatories put to him, except in his own way, and as commissioner of Spain for the delivery of West Florida and its dependencies, which the undersigned would not in his judicial capacity, nor could he, know him in any other than his individual capacity, brought before him on the complaint of his acts being injurious to the rights and property of individuals, and in open violation of the orders of the undersigned, and in contempt of his decrees; Fullarat, having been interrogated, declared that he received from Domingo Sousa the papers alluded to, and that the said papers in boxes were in Colonel Callava's house.

Colonel George Walton, Secretary of West Florida, Colonel John Miller, Clerk of the county of Escambia, David Shannon, Esq., presiding justice of said court, and Thomas Brownjohn, Esq., presiding justice of said court, accompanied by H. M. Brackenridge, Esq., alcalde of the city of Pensacola, will forthwith proceed to the house of Colonel Jose Callava, and make search for the said papers, breaking open said boxes; and if said papers, as mentioned in the annexed petition, are found therein, to take the same and bring them to the undersigned, with this warrant, leaving all other papers in said boxes secured in the same way as said boxes are found, and report the same to me in writing how they have executed this warrant.

Given under my hand and private seal, (there being no seal of office,) at Pensacola, in West Florida, the 22d day of August, 1821.

ANDREW JACKSON.

PENSACOLA, August 23, 1821.

In the execution of the above order, we, the undersigned, proceeded to the dwelling of Colonel Callava, and, having opened a box containing papers, found the documents enumerated in the above list, and, after taking them out, again closed the said box, placing a seal upon the same. We now deliver into your Excellency's possession the papers and documents above enumerated.

GEORGE WALTON,
Secretary of West Florida.
JOHN MILLER,
D. SHANNON,
J. BROWNJOHN.

His Exc'y Gen. JACKSON.

Orders for the discharge of Colonel Callava, Domingo Sousa, and Antoine Fullarat.

OFFICE OF THE EXECUTIVE,
Pensacola, August 23, 1821.

Application being made to the undersigned, this 23d day of August, 1821, by H. M. Brackenridge, alcalde for the city of Pensacola, by petition founded upon the affidavit of Merced Vidal, of the 23d of August, 1821, and on the declaration of Domingo Sousa, and Antoine Fullarat, steward of Colonel Callava, that the first had delivered, and the latter received, at the house of Colonel Jose Callava, the papers found at the house of Domingo Sousa, and, by the order of the undersigned, commanded to be delivered, for the use of the individuals whose rights are involved and concerned, into the hand and possession of H. M. Brackenridge, Esq., alcalde for the city of Pensacola, for safe keeping, and that the said papers were in the boxes as above stated, and in the house of said Callava; and information being made to me, by report of Colonel Robert Butler, Dr. J. C. Bronaugh, and the said H. M. Brackenridge, alcalde as aforesaid, that the said boxes were seen in the house of the said Colonel Callava on the evening of the 22d instant; and it being stated by the affidavit of Merced Vidal that the papers were about to be taken to Havana, and a warrant prayed to make search for the same: and whereas the said warrant was granted to Colonel George Walton, secretary of West Florida, Colonel John Miller, clerk of the court for the county of Escambia, David Shannon, Esq., president of the said court, and Thomas Brownjohn, Esq., accompanied by H. M. Brackenridge, alcalde for the city of Pensacola, to execute and report in what manner they had executed the same, who made the following report thereon:

"PENSACOLA, August 23, 1821.

"In the execution of the above order, we, the undersigned, proceeded to the dwelling of Colonel Callava, and, having opened a box containing papers, found the documents enumerated in the above list [which accompanied the warrant,] and, after taking them out, again closed the same. We now deliver into your Excellency's possession the papers and documents as before enumerated, &c.

GEORGE WALTON,
JOHN MILLER,
D. SHANNON,
J. BROWNJOHN."

Whereupon, the undersigned ordered that said papers be and remain in the possession of Colonel G. Walton, Secretary of West Florida, and by him delivered over to H. M. Brackenridge, alcalde for the city of Pensacola, for safe keeping, taking his receipt for the same.

The officer of the day over the guards of Pensacola (Captain Wager) will therefore discharge Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, Colonel Callava's steward, from the custody of the guard; make known to them that the papers for the non-delivery of which, and contempt of the orders of the undersigned, they

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were confined, are in my custody, to be handed over to H. M. Brackenridge, Esq., alcalde for the city of Pensacola, for safe keeping, for the benefit of the individuals and their rights that may be concerned, making them subject to such costs as the said H. M. Brackenridge, alcalde for the city of Pensacola, may tax against them; then conduct Colonel Callava to his house, examine if the two boxes of papers remain sealed, leave him in possession of them, and dismiss the guard from his house, and report the same to the undersigned, with this order.

ANDREW JACKSON,
Governor of the Floridas.

Return of Captain Wager to the above order.

PENSACOLA, August 24, 1821.

I have the honor to report that your order of yesterday, directing the release of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, has been complied with. Immediately upon the receipt of said order, I repaired to the guard at the calaboose, and, having communicated its contents to Colonel Jose Callava, I conducted him to his own house, where I examined two sealed boxes said to contain papers. I further attended him in the examination of his own effects, with the safety of which he appeared satisfied. I then dismissed the guard from his house, and left him in peaceful possession of it.

I have the honor to be, &c.

P. WAGER.

His Exc'y ANDREW JACKSON.

H. M. Brackenridge's (receipts) to Colonel Walton for the documents above mentioned.

PENSACOLA, August 25, 1821.

Received of G. Walton, Esq., Secretary of West Florida, the following documents belonging to the archives of this province, being the same obtained through proceedings instituted at my instance:

1. The papers in the case of Vidal.
2. In the case of Bonfay and Carlos de Ville.
3. In the case of Carlos de Ville and Sierra.
4. In the case of Peter Guilkes and Villaseca.

H. M. BRACKENRIDGE,
Alcalde for the city of Pensacola.

SECRETARY'S OFFICE,
Pensacola, August 25, 1821.

I do hereby certify that the above are true copies of all the documents in my office relating to the arrest and imprisonment, and discharge from imprisonment, of Colonel Don Jose Callava, Domingo Sousa, and Antoine Fullarat.

Given under my hand and private seal, (there being no seal of office,) this 25th day of August, 1821.

GEORGE WALTON,
Secretary of West Florida.

E.

Testimony in behalf of Colonel Callava.

We, the undersigned, declare, upon oath, that about half-past five in the afternoon of yesterday, the 23d current, we were witnesses of the examination which the Spanish Colonel, Don Jose Callava, made of his house, who, accompanied by an officer of the United States, entered it for the first time, after having been dismissed from prison, into which he had been put the night before by the Governor of this place, Don Andrew Jackson. The house was found open, and troops in it; these troops belonged to the United States, and were armed. In the Colonel's chamber we saw bundles of papers upon the table which served him for a writing desk, and these bundles neither sealed nor secured. We also saw and examined two boxes secured with nails, and sealed with black wax in various places, upon white paper, and that the seal was that which the said Colonel used in making up his despatches as Governor in Pensacola; and, for our greater certainty, the seal being upon the table, we took it and compared it with the stamp upon the wax on the boxes. We also saw and examined that one of these boxes had various broken seals, which demonstrated evidently, and convinced the human understanding beyond a doubt, that the said box had been opened after it had been sealed and nailed. We observed, also, that it was secured anew, and that close by the broken seals other seals had been put with wax of the same color as the others, but the seals were of a different figure; all this was likewise observed by the officer of the United States who assisted in the examination. We also saw that the Colonel took from his bed some large keys, and that with them he opened a strong box, and from a drawer therein he took out a bag of gold, which he emptied upon a table, and counted, by pieces of gold, in our presence, two hundred and fifteen pieces, with seven pieces of silver, and two reals more; that afterwards he returned the said money into the strong-box; on his doing which, the officer of the United States said that he had finished his business, and went away.

The relation of these facts we have thought proper to present in this declaration, as they appeared to us, accompanied by the said officer of the United States, on this examination. And for its verification we sign it, at Pensacola, the 24th day of the month of August, 1821.

LUIS DANNOG,
B. PRIETO,
JOSE Y. CRUZAT,
PEDRO DE VEGAS,
ENRIQUE MICHELET,
LUIS GAGNET.

A true copy:

H. DE RIVAS Y SALMON.

The Secretary of State to Don Joaquin de Anduaga.

DEPARTMENT OF STATE,
Washington, November 2, 1821.

SIR: Previous to your arrival in this country, I had the honor of receiving from Don Hilario de

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Rivas y Salmon, then Chargé d'Affaires from your Government, a letter dated the 6th of the last month, with sundry papers enclosed, exhibiting complaints against the Governor of the Territories of Florida for certain proceedings in his judicial character against Colonel Don Jose Callava. That letter was immediately submitted to the consideration of the President of the United States, by whose directions I have now the honor of addressing you an answer thereto.

The complaints, in substance, are—

1. That Colonel Callava being a commissioner of His Catholic Majesty for delivering the province over to the United States, and entitled to the special protection of the laws of nations, his house was forcibly entered in the night time, and he himself being then sick in bed was, under special circumstances of rigor and inhumanity, summoned and compelled to go before Governor Jackson to answer interrogatories.

2. That the questions put to him, and his answers to them, were both falsely interpreted; he being ignorant of the language in which the interrogatories were put.

3. That he was finally committed to prison, and there detained for the space of a day before he was released.

4. That, during the period of his detention, his house, his property, and the papers of his Government, were left at the mercy of the soldiery; that he found, on his return to his house, the seals of his Government upon certain boxes of papers broken, and some of the papers scattered about.

I am instructed by the President of the United States to assure you of his deep regret that, in the completion of a transaction of such high importance to both nations, any circumstance to excite pain on either side should have occurred.

On the merits of the proceeding complained of, all the light necessary to the formation of a correct judgment has not been received. It would be improper, therefore, in the present case, to pronounce definitively on the subject. In its intercourse with foreign Powers, the Government of the United States is scrupulously observant of the rights of the representative character of persons charged by their Governments with the performance of any duty incident to their relations with this Union. Although Colonel Callava was not clothed with the character or credentials of a public minister, it is readily admitted that, in the execution of his trust, as a commissary for the delivery of the province, he was entitled to all the protection and all the immunities necessary for the discharge of that duty. But it is not less true that in the treaty itself it had been stipulated that the whole transaction of the surrender of the provinces, and the evacuation of all the officers of His Catholic Majesty within it, should be completed within six months from the exchange of the ratifications of the treaty; which six months had elapsed at the time when these incidents occurred. It is also true that the surrender had been completed; that the authority of Spain within the province had more than a month before ceased,

and that of the United States had taken its place. The troops of His Catholic Majesty had been removed; and if Colonel Callava and other officers of Spain remained there after the consummation of that event, they could no longer claim the immunities of public agency, or any other privileges than those of strangers permitted to reside in the place—strangers not only amenable to the common judicial tribunal, but who, conformably to the Spanish laws existing before the cession of the province, would have been liable to removal from it, or to imprisonment, at the discretion of the Governor, for the mere act of being there.

It is asserted by Colonel Callava that the postponement of his departure from Pensacola had been necessary; because it was impossible for him to terminate the business incident to the surrender on that day; because he was sick; and because the question whether the artillery belonging to the fortifications was or was not included in the cession had been referred to the decision of the two Governments. To this the reply is obvious—that, without now referring to the delays which protracted till the 17th of July the surrender which might have been effected more than two months before, there was yet ample time between that day and the 22d of August for the discharge of any business incidental to it; that the personal indisposition of Colonel Callava neither disqualified him on the 17th of July from the transaction of business, nor on the 22d of August from being present at a festive entertainment, nor immediately afterwards from undertaking and performing a long and fatiguing journey from Pensacola to New York, and thence to embark on a voyage by sea; and that, with regard to the question concerning the cannon, which was reserved for the decision of the two Governments, it furnished no sufficient motive for the continuance of Colonel Callava there—a particular receipt for them having been given by Governor Jackson, and the right of Spain to remove them, whatever its merits might be, being in no manner affected by the departure of the Spanish commissioner.

It appears, therefore, that, both by the limitation of time stipulated in the treaty for the surrender of the province, and by the nature of the functions assigned by Colonel Callava, his immunities of exemption from the ordinary process of the law had ceased before the 22d of August. The allegation that Governor Jackson had, nineteen days before that time, recognised his commissarial character as yet existing, will not affect the principles here advanced: 1st. Because the limited six months had not then expired; and 2dly. Because the only transaction of General Jackson on that day, recognising Colonel Callava as a commissioner, was, by writing him a letter complaining of a signal breach of faith by that officer, in evading, on the plea of indisposition, the performance of a stipulated promise, on the morning of the 17th of July, before the surrender, and afterwards refusing to perform it at all; which letter after an expostulation against that proceeding, suited to the aggravation of its character, finished by a declaration of General Jackson that it closed

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the correspondence between him and Colonel Callava on the subject forever.

Far would it be from the intention of the American Government to draw within its rigorous limits the exemption from ordinary legal process of a foreign public officer. It would extend to them a liberal measure of time and a full portion of indulgence for the execution of the trust, and for departure after its completion. But it cannot perceive the justice of extending these privileges beyond their limits as sanctioned by custom, for purposes of injustice and wrong. And here we are led to the inquiry, what was the immediate occasion of the summons to Colonel Callava, his resistance against which prompted the subsequent rigorous measures, in reference to his person, house, and papers, complained of in the note of Mr. Salmon? He had withheld, and caused to be packed in boxes for transportation, public records, relating to the property of the province—judicial documents, indispensable for vindicating the titles to succession of infant and orphan children. Application was made to General Jackson, in behalf of those orphans, for the legal judicial process to obtain those papers. He had proof that they had been removed, after a summons from him to the person in whose possession they had been to produce them, to the house and possession of Colonel Callava, for the avowed purpose of subtracting them from the process issued by his authority. Had that officer's personal immunity been complete and unquestionable, what greater abuse of it could have been made than thus to wrest from the course of justice the vouchers on which depended the rights and the subsistence of orphans? General Jackson, considering that Colonel Callava was not entitled to such exemption from legal process, issued the ordinary summons which would have been applicable to any other individual; and, on his refusal to answer the interrogatories put to him, committed him, as others in like cases would have been committed, to prison. By the same order he issued a commission for securing the papers, which ought to have been delivered up before, with all suitable caution, to prevent the taking of any others, and, immediately after the satisfactory return of that commission, ordered the release of Colonel Callava. Such appears to have been the character of the transaction, upon the report of it made by General Jackson; and, although the President cannot but contemplate with unfeigned regret this occurrence, he thinks that blame should be imputed to the party deserving it, and whose misconduct produced it; and that it is a justice due to General Jackson to make him acquainted with the objections in the note of Mr. Salmon to his conduct, and to receive his full explanation of the motives and considerations which governed him.

In concluding this letter, I cannot forbear reminding you, sir, that not only this, but all the other transactions of a painful nature which have arisen in the execution of that treaty, and which it was hoped would have terminated all the differences, and have led to the most harmonious intercourse between the United States and Spain, have pro-

ceeded from the unjustifiable delays and evasions of His Catholic Majesty's officers, in direct contravention, as is understood, to his orders and intentions, in withholding the documents, archives, and vouchers, of which the delivery had been expressly stipulated—vouchers indispensable to the United States, both for the dispensation of private justice and for the establishment of public right, but utterly useless to Spain; and the detention of which, by the Captain General and Governor of Cuba, and by the Spanish Governors of both East and West Florida, however intended, and by whatever motive induced, can subserve no purposes but those of fraud, injustice, and oppression. After a succession of delays, for a period of six weeks at the Havana, in a climate noted for its unhealthiness to strangers, of the commissioner of the United States authorized to receive those documents, and of the vessel which had conveyed him, he was compelled to depart without them, nor have they yet been delivered. The attempts to carry away, both from Pensacola and from St. Augustine, many of those papers, can be viewed in no other light than as flagrant violations of the treaty. The President relies that they will be so considered by His Catholic Majesty, and that he has ere this given the most positive and effectual orders for the faithful execution, in this respect, of that instrument. I pray you, &c.

JOHN QUINCY ADAMS.

DON JOAQUIN DE ANDUAGA,
Envoy Extraordinary, &c.

Don Joaquin de Anduaga to the Secretary of State.

PHILADELPHIA, November 14, 1821.

SIR: I have received your note of the 2d of this month, (which I have transmitted to my Government,) in answer to a letter of the 6th ultimo, which Don Hilario de Rivas y Salmon had the honor to address to you, relative to the proceedings of General Jackson with Colonel Callava.

I can do no less than applaud the President's resolution, so worthy of his prudence, of not pronouncing definitively upon this business until he had the whole documents concerning it before him; and I flatter myself that, when that takes place, he will do ample justice to the representation of the above-named *chargé d'affaires*. In this persuasion I will not at present enter upon an answer to the paragraphs of your said note which seem to defend the conduct of General Jackson; and I shall defer doing this unless the President (which is not to be expected) should think it his duty to approve it.

I avail myself of this opportunity of offering you, sir, the sentiments of my distinguished consideration, and pray God that you may live many years. Your obedient and humble servant,

JOAQUIN DE ANDUAGA.

Don Joaquin de Anduaga to the Secretary of State.

PHILADELPHIA, November 18, 1821.

SIR: General Jackson, not satisfied with the outrages which he practised against Colonel Cal-

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lava on the 22d of September last, has published, in Pensacola, a proclamation, in which, on the most frivolous pretexts, he has ordered that Don Marcos de Villiers, Don Bernardo Prieto, Don Luis Guayare, Don Civito Lasassier, Don Arnaldo Guillemard, Don Carlos de Villiers, Don Pedro de Vegas, and Don Mariano Latady, all in the service of His Catholic Majesty, should quit the above-named city on or before the 3d day of October following.

The reasons which he alleges for a proceeding so shocking are the following: 1st. That, by the seventh article of the treaty between Spain and the United States, of the 22d of February, 1819, it was stipulated that the officers and troops of His Catholic Majesty should evacuate the territories ceded to the United States six months after the exchange of the ratifications, or sooner if possible, and that they should give possession of them to the officers or commissaries of the United States duly authorized to receive them; 2d. That the said officers, acting as a separate body, endeavored to sow discontent among the inhabitants; and, 3d. That they were the authors of a paper in which they criticised the proceedings which took place in the interrogatory made by General Jackson of Colonel Callava, previous to his sending him to prison.

If General Jackson, as commissary for receiving the Floridas, believed it his duty to fulfil the letter of the seventh article of the treaty, how deficient was he in that duty in permitting those officers to remain in the province more than a month after the expiration of the six stipulated. His consent and silence, during this time, afford evident proof that his opinion was, that the treaty was in no way infringed by the remaining of eight individuals after that time had elapsed; and, in truth, it being the spirit of the said seventh article to secure to the United States the peaceable possession of those territories, it is very difficult to imagine how so small a number of subjects could endanger it. Besides, if the proclamation had for its object the fulfilment of the article, why was it confined to the eight officers by name, and not extended to all those who were likewise in both Floridas?

I confess that I am embarrassed how to answer the second paragraph, because I do not know what General Jackson means by the officers acting as a distinct body. Can it be that, being subjects, and belonging to the service of a Power friendly to the United States, they were seen as companions, and were not deemed citizens of this Republic, but foreigners, who for a short time remained in its territory, under the protection of the law of nations and of treaties? In this case, the same criminality might be attached to such Americans as travel through Europe, and especially to the officers of the American squadron in the Mediterranean, who, instead of outrages, meet with a reception in the ports of Spain to which their circumstances, and the friendship which unites both nations, entitle them.

The second extreme of the second paragraph and of the third are really serious accusations, and, if it be certain that the officers, either by their

actions or by their writings, would have attempted to excite discontent in the inhabitants, there is no doubt of their being criminal. With regard to their actions, it is very strange that General Jackson has not thought fit, in taking a step so precipitate, to give what still was not proof—at least, the relation of what had obliged him to declare them culpable of such a crime; and as, in the meantime, neither appears evident to me, I think myself authorized to declare the accusation to be false. With regard to the writing which he cites, the officers were free to believe themselves at liberty to publish it, since they could not but have been persuaded that they were in a country where, till lately, the Spanish laws, and now those of the United States, prevailed, and where the liberty of the press was their justification in doing it. And what did they say in the paragraph copied by General Jackson? That the interrogations were not faithfully translated to Callava—a fact which the same person who acted as interpreter in that has since confessed in a piece published in the newspapers; yet for this publication they have been expelled from the Floridas. I as little comprehend from whence arises the criminality of the passage which General Jackson copies in his proclamation, that, “if, on the one hand, they shuddered at the violent proceedings exercised against their superior, they knew also what was due to a Government which is on the most friendly footing with their own.” What does he wish them to say, but that, notwithstanding the sentiments inspired by the precipitate acts against Colonel Callava, they knew that it was their duty to submit to the decisions of a Government friendly to their own? In vain will it be pretended that the object of this writing is to rouse the minds of the inhabitants; it only relates to what took place before them all, and what has since been publicly confessed by one of the agents of General Jackson himself. There is no doubt, in fact, that the hearts of the Floridians were overwhelmed with sorrow and pain to see those outrages committed against one who had so long been their superior, and had known how to gain their affection; no doubt but that, seeing the violences committed against him, and against those who a few days before were their fellow-countrymen, they were so much the more alarmed, because they believed they were passing under the pleasant yoke of a Power, the asylum of liberty and of justice, yet had been witnesses of proceedings seldom practised in the most despotic countries. But who ought to bear the reproach of effects so natural—he who caused them, or they who deplored them?

I believe I have answered the accusations contained in the proclamation; but, in order to make the irregularity of General Jackson's proceedings more evident, I will grant for a moment that they are certain and proved; I will admit that the officers have been deserving of the chastisement and dishonor which they have suffered; but yet nobody will deny me that, before it was inflicted upon them, they ought to have been cited before the proper tribunal, have heard the charges, and have had liberty and time for their defence. These are

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fundamental principles of the laws of Spain, and of the United States, and of every civilized country. But what has been the conduct of General Jackson? Without giving them the least intimation, he publishes, in a language *foreign to them*, a proclamation expelling them from the province, giving them scarcely time to arrange their affairs, and authorizing all officers, civil and military, to apprehend them, and bring them before him!

I forbear making reflections upon a fact of such a nature, and it would be doing an injury, sir, to your sense of justice if I should dwell upon its odiousness.

In fine, either General Jackson has expelled the above-mentioned officers because he believed them criminal, (and in this case he ought to have had them judged according to the laws,) or he thought proper to do it as a political measure, in which case he ought to have executed it as the relations between the countries demand, either by giving them notice in writing, or verbally, with that urbanity which a person of his grade ought never to forget. In place of this, he was wanting either to the laws, or to the respect which was due to the officers and subjects of a Power friendly to his Government; and, consequently, I feel it my duty to request that you will have the goodness to lay this note before the President, not doubting, from his well-known justice, that he will give to His Catholic Majesty the satisfaction which the above-mentioned conduct of General Jackson towards the before-named Spanish officers demands. Whereupon, I renew to you, sir, the sentiments of my distinguished consideration.

Your most obedient, humble servant,
JOAQUIN DE ANDUAGA.

Don Joaquin de Anduaga to the Secretary of State.

PHILADELPHIA, November 22, 1821.

SIR: By your note of the 13th of August last to my predecessor, Don Francisco Dionisio Vives, you were pleased to acquaint him that copies of the correspondence which had taken place between Don Jose Coppinger, Governor and Commissary nominated by His Catholic Majesty for the delivery of East Florida, and Colonel Butler, commissary appointed by the United States to take possession of it, had been received. Upon reading it, you cannot but applaud the zeal with which Colonel Coppinger labored to obviate and remove all the difficulties which could delay this important transaction, and the activity with which he made the aforesaid delivery, without concluding a multitude of subjects which yet remain pending, and without waiting for the term fixed by the treaty. The harmony and good understanding which prevailed between both commissaries is very praiseworthy, inasmuch as they evidently showed that, guided solely by the desire of executing their respective duties, far from throwing obstacles in the way of its accomplishment, with discussions liable to inflame the mind, they thought that urbanity and decorum were the most proper means of serving their respective Governments in the important commission with which they had

been intrusted. By the aforementioned correspondence, it appears that doubts had arisen whether the artillery and certain archives ought or ought not to be delivered over to the United States, and in that you will have seen that it was clearly and definitively stipulated between Messrs. Coppinger and Butler that both should remain in St. Augustine; the former in deposite in possession of the Anglo-American commissary, and the latter in the state in which they were, and without the possibility of their being carried away to the Havana until the determination of both Governments, in a certain time, should arrive. At the departure of Colonel Butler from the said city, after the delivery had been effected, he wrote officially to Colonel Coppinger that he would have to transact his business with Captain Bell, who succeeded him; and, without doubt, from the copies of his correspondence with Colonel Coppinger, you will have observed that, on various subjects which occurred, he considered him, and interchanged letters with him, recognising him still in the quality of Spanish commissary. On the arrival of Mr. Worthington, who came to St. Augustine to supply the place of Captain Bell, the aspect of affairs was changed; and in the correspondence which took place between him and Colonel Coppinger upon an incident relative to a Spanish agent, he not only affected not to understand that Coppinger continued in the quality of Spanish commissary with the consent of his predecessors, but he was pleased to make use of expressions highly injurious to Spain, and foreign to the language which a person whom the American Government had thought worthy of its confidence ought to have used. Colonel Coppinger waited for the answer to the protest which he had made to Mr. Worthington upon the incident above mentioned; when, without any previous notice, or any other cause, the offence was committed which is related in the subjoined protests of Colonel Coppinger and of the secretary.

That the American Government had no right to demand any paper from Colonel Coppinger, is evident from the receipt of the delivery given to him by Colonel Butler on the 10th of July last, which is given for the delivery of what the treaty stipulated, and which declares expressly that the doubt relative to the artillery and certain documents was left to the determination of both Governments.

That the commissaries, Coppinger and Butler, had agreed, in virtue of their respective powers, that the archives in question should remain in the state in which they were, appears from the correspondence of both. What reason, then, what pretext, what excuse, can General Jackson and his officers give for a crime so unheard of?

From all that I have explained, and from the accompanying documents, it results—

1st. That His Catholic Majesty has been insulted, in the person of his commissary, in the most scandalous manner.

2d. That General Jackson has broken, without giving any reason for it, an agreement signed by his own officers.

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3d. That, in the spoliation, or rather plunder, committed in the house of Colonel Coppinger, the law of nations, and all the known laws of civilized countries, have been trampled upon, inasmuch as he was the commissary of a foreign Power, and inasmuch as, without summons or notice, without accusation, trial, or sentence, the doors of his house have been broken, and he has not only been robbed of his family and private papers, always sacred, but of those which, being the correspondence of office, and reserved with his Government, belong to His Catholic Majesty.

The sentiments which animate a free people, and the principles which direct those who have the high honor of governing them, are well known to you. Capable of making every sacrifice where their interest alone is concerned, they never yield when their insulted honor demands just satisfaction. That His Catholic Majesty is under the necessity of demanding it for the repeated insults offered by General Jackson, his commissaries, officers, and servants, is fully proved by my remonstrances, and those of Don Hilario de Rivas; and, to be brief, I at present demand in his royal name—

1st. That the Government of the United States show, in an authentic manner, its disapprobation of the insults offered to the Spanish commissary, Don Jose Coppinger.

2dly That the authors of them be punished as they deserve.

3dly. That all the papers, without *any distinction*, which were taken from the house of Colonel Coppinger, and of the Secretary, on the 2d of October, be restored to Colonel Don Jose Coppinger, who will return to St. Augustine for that purpose, that he may keep those which belong to the Spanish Government, and preserve in his possession those which have been the object of doubts, until, according to the solemn stipulation by him and Colonel Butler, both Governments come to a determination respecting them.

4thly. That the Government of the United States satisfy Spain and Don Jose Coppinger for the damages and injuries which they have sustained by the injustice of the American authorities in the Floridas.

No doubt but the President will acknowledge the justice of this remonstrance, and I flatter myself that he will be pleased to give, without delay, to a monarch who has given such proofs of his friendship for the United States, a satisfaction which his honor and that of the Spanish nation demand.

I repeat, &c.

JOAQUIN DE ANDUAGA.

Don Joaquin de Anduaga to the Secretary of State.

PHILADELPHIA, December 27, 1821.

SIR: The immense sacrifices made by Spain to satisfy the claims of the United States have given her a just right to flatter herself that the American Government would, in its turn, pay attention to those which His Catholic Majesty might see necessary to make, with that readiness which is due to a friendship that he had, at such great

cost, endeavored to maintain between the two cabinets. Under this impression, I believed that the President, guided by his characteristic principles of justice, and with a full conviction of the solid reasons with which, in my notes of the 18th and 22d of last month, I demanded satisfaction for the injuries of General Jackson towards the Spanish commissaries and officers in the Floridas, would have been pleased to order it to be given to me without delay. But I see with pain that, so far from my hopes being realized, the receipt of my notes, after so long a time, has not even been acknowledged. What may have been the cause of this silence, I am not able to divine, unless it be the difficulty of deciding to what satisfaction His Catholic Majesty is entitled.

If my claims were founded on matters of interest, I could have waited for the answer to them without being troublesome to you, sir; but, as they originate in atrocious injuries committed against the honor of my King and my nation, I should be wanting to my most sacred duties if I did not persist in demanding the satisfaction which they require.

The more General Jackson's conduct is considered, the more evident it is that his sole aim by it has been to insult Spain. In fact, no advantage could result from it to the United States, no glory to the General himself, in trampling upon the defenceless commissaries and officers of Spain. And if none of these purposes (the only ones that could excuse him in the eyes of a cabinet less just than this) impelled him, what doubt can remain but that his sole motive was his inveterate hatred against the Spaniards? It is therefore certain that General Jackson ought not to meet protection from his Government, whose interest he did not consult, when he had the audacity to trample upon the law of nations, and the laws of every civilized people. But, admitting that his intention had been to promote the prosperity of his country, it would be doing a serious injustice to the President to suppose for a moment that he could approve of its being attained by measures so criminal. Satisfied of this truth, I have not the least doubt but that the satisfaction demanded will be given to me; and the sole purpose of this note is to request, sir, that you will be pleased to transmit it to me as soon as possible, as your own delicacy will convince you of the impatience with which His Catholic Majesty expects it, who, by how much more zealous he is to preserve the greatest harmony with the United States, by so much the more anxious will he be to see every cause tending to disturb it removed.

I embrace this opportunity to renew to you, sir, the sentiments of my distinguished consideration.

JOAQUIN DE ANDUAGA.

Mr. Adams to Mr. De Anduaga.

DEPARTMENT OF STATE,
Washington, December 31, 1821.

SIR: I have had the honor of receiving your letters of the 14th, 18th, and 22d November, and 13th and 27th of the present month.

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In my letter to you of [2d] November last, in answer to that of the 6th of October, which had been received from Mr. Salmon, I informed you that a definitive answer upon the complaints of Mr. Salmon and Colonel Callava would be given after General Jackson should have been made acquainted with them, and his explanations of the motives and considerations by which he had been governed should be received.

In your letter of the 14th November you manifested your entire satisfaction with this course of proceeding; and when, afterwards, your letters of the 18th and 22d of November were received, containing new complaints against other proceedings of General Jackson, subsequent to those to which the letter of Mr. Salmon had applied, it was presumed that you would expect that the same course should be adopted with regard to these additional charges as had already met your approbation in relation to the preceding subjects of complaint. This was the reason why an immediate acknowledgment of the receipt of those letters was not transmitted to you, and is the motive for postponing at present any further reply to your letter of the 27th instant.

I had the honor of informing your predecessor, General Vives, that the statement, stipulated in the fourteenth article of the late treaty to be given by the United States, of the prizes made, and of injuries suffered by the privateers, consuls, and tribunals of France, in the ports of Spain, and its amount, could be ascertained only by the result of the commission instituted by virtue of the eleventh article of the treaty. That commission has already made some progress in the investigation of the cases brought before them; and when they shall have decided upon those concerning which the statement mentioned in the fourteenth article of the treaty is to be made, it shall be transmitted to you without delay.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

DON J. DE ANDUAGA, Envoy, &c.

Don Joachin de Anduaga to the Secretary of State.

PHILADELPHIA, January 6, 1822.

SIR: I have had the honor to receive your note of the 31st ultimo, in answer to mine of the 27th of the same month. When, in it, I deemed it my duty to repeat my demand of satisfaction for the conduct of General Jackson, I did so because I had no doubt that he, before leaving the Floridas, had informed his Government of his motives for maltreating the Spanish commissaries and officers. This persuasion was the stronger, inasmuch as I had before received letters from the Floridas considerably later than the events which gave rise to my complaints and the departure of General Jackson; but supposing his having given no account even of the reasons which impelled him to such extraordinary proceedings, (a very just impediment, for which the President may give time in order to determine on my demands,) some notice,

it appears reasonable, ought to have arrived long since.

Yet, let the excuses of General Jackson be what they will, it is evident that he can give none for possessing himself of the papers belonging to His Catholic Majesty. I could have flattered myself, therefore, that the President would have been pleased to order the restoration of them, as he could not possibly have retained the least doubt in his mind about a provision so just.

In my note of the 22d of November I had the honor to communicate to you, sir, that I had ordered Colonel Coppinger to stay and return to St. Augustine to take charge of *all* the papers which had been taken from him. His remaining increases the damages which have been sustained by His Catholic Majesty, and adds to the vexations of which Colonel Coppinger himself has been the victim; and I shall also take upon me to add, that the delay in the restoration of documents belonging to a monarch friendly to the United States is not conformable to what His Catholic Majesty had a right to expect from a Government to which so many proofs of his delicacy and esteem have been given.

Wherefore, sir, I request of you, anew, that the most peremptory orders may be given for the immediate delivery to Colonel Coppinger of *all* the papers of which he was dispossessed, and I am persuaded that the President will not refuse so reasonable a demand; in the mean time, that, in giving complete satisfaction to Spain for the injuries committed against her, he may have that of wiping off the stain which General Jackson, with his unjust and violent proceedings, has thrown upon the reputation of the American authorities.

I renew, sir, the sentiments of my most distinguished consideration, &c.

JOAQUIN DE ANDUAGA.

HON. JOHN QUINCY ADAMS.

WASHINGTON, April 18, 1822.

To the House of Representatives of the United States:

I communicate to the House of Representatives copies of sundry papers having relation to transactions in East and West Florida, which have been received at the Department of State since my message to the two Houses of Congress of 28th of January last, together with copies of two letters from the Secretary of State upon the same subject.

JAMES MONROE.

Extract of a letter from Mr. Worthington to the Secretary of State, dated

EXECUTIVE DEPARTMENT, E. F.

St. Augustine, January 15, 1822.

The enclosed certificates (Nos. 12 and 13) will close all the papers which I have thought it necessary to send on respecting the archives.

If the Government will direct me what to do with the papers determined to be returned to the ex-governor and escribano, I will make the disposition accordingly.

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No. 12.

Colonel Forbes to Mr. Worthington.

ST. AUGUSTINE, January 8, 1822.

SIR: After the archives and documents had been investigated under your Excellency's commission of the 1st of October, and the papers separated, I communicated your orders to the escribano, Mr. Entralgo, to deliver him those taken from his office, which it was deemed the United States did not claim under the treaty; also, I made a similar offer to Mr. Arredondo, the general attorney of the ex-governor, Colonel Coppinger, he being absent, to deliver those taken from him, which it was thought proper not to retain. They both declined taking them; so they remain safe, but subject to future orders. I made the offer in writing, as one of the commissioners and as marshal of the United States for the Floridas, agreeably to your written directions. I am, &c.

JAMES G. FORBES.

His Exc'y W. G. D. WORTHINGTON,
Secretary and acting Governor East Florida.

No. 13.

Mr. Law to Mr. Worthington.

ST. AUGUSTINE, January 14, 1822.

SIR: Of the archives and documents taken into the American possession under your commission of the 1st of October, from the Spanish escribano, Mr. Entralgo, part of five boxes are retained as belonging to the United States under a fair construction of the treaty, and the remainder of the five boxes determined by the commissioners to be returned to Mr. Entralgo. From the Spanish ex-governor, Colonel Coppinger, part of six boxes are retained under the above construction, and the remainder of the six boxes determined, as above, to be returned to Colonel Coppinger. Both Colonel Coppinger and Mr. Entralgo, I learn, decline taking those offered to be returned. I would, therefore, advise some final disposition to be made of them, either by yourself or the General Government, as they may be subject to casualties while in our possession. To those papers retained, Americans, Spaniards, and all persons interested, have daily access. Those determined to be returned remain nailed up, and no one is suffered to handle or inspect them.

Yours, respectfully,

EDMUND LAW, *Alcalde.*W. G. D. WORTHINGTON, *Secretary, &c.**Captain Bell to the Secretary of State.*

WASHINGTON CITY January 5, 1822.

SIR: I had the honor to command the detachment of the United States troops on the 10th of July, 1821, the day on which an exchange of flags took place at St. Augustine, the capital of East Florida, under the late treaty with Spain. On the day following I was, by commission from General Jackson, Governor of the Floridas, vested with all the powers of the late Spanish Governor Coppinger, which commission I received through

the hands of the American commissioner, Colonel Butler, with other documents and instructions from my Government in the discharge of the duties of the provisional secretary of the province until the arrival of Mr. Worthington, who had been duly appointed by the President of the United States. Colonel Butler, the commissioner, shortly after set out for Pensacola. Among the documents left by him for my government and information, were extracts of the official correspondence between the two commissioners on the subject of the archives and documents relating to individual property, and the inhabitants of the province; by which it was agreed that they were not to be removed from St. Augustine, but to remain precisely as they were until the doubts arising on the part of the Spanish commissioner should, by reference to the Spanish authorities on his part, and to the American authorities at Washington on the part of the American commissioner, be settled. No inventory of the archives, documents, and papers, was ever made to my knowledge; none was delivered to me by Colonel Butler.

After his departure, a number of the inhabitants waited on me to know the situation in which the archives and documents relative to property and rights in the province had been left by the American commissioner, and if he had obtained possession of them. On being informed that they were said to be in the possession of the escribano, a Spanish notary and officer, until the doubts arising as to the delivery of them should be settled by the respective Spanish and American authorities, they appeared greatly dissatisfied, expressed themselves in a manner and in terms which led me to believe they had no confidence in the Spanish officers, and, finding no inventory had been made of the archives, declared, from their knowledge of the manner in which these documents were filed, that there was no security that the whole of the documents would ever be delivered; that important papers might be sent to the Havana, if not already sent; that others might be placed on the files; that the door was open to almost every species of fraud in the office, by which individual rights would be violated, and the public lands would be granted away without the possibility of detection. They strongly advised me, for the above reasons, to take possession of them. This, I informed them, I was not authorized to do, but things must remain as they were until I received further instructions. Boxes were already made in which these documents were to have been packed to be sent to the Havana, but they were in the public store, and under my charge. A Spanish armed schooner sailed, some time after the transports with the troops, for the Havana; as did also another vessel, which carried the treasurer of the province; it was said many boxes, supposed to contain documents, were taken by this officer. The whole of the archives or bureau of the city of Eugenia, which contained important documents relating to individual rights in the city, public squares, and vacant lands, were removed, or not found at the time of taking possession of the documents and papers found in

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the offices of the late Governor Coppinger and escribano. There was a vessel almost ready to sail for the Havana; boxes were ready in the Governor's house, in which the documents found in his office were to have been placed; this, I believe, he admits in his protest. Although the papers have been seized, a sufficient examination has been had to determine if all are there which were expected to be found. I frequently heard the persons appointed to examine them say that they did not find in the Governor's office those papers which are usually kept in this office. Whether any were removed after the 23d June, which were embraced in the correspondence, I am not able to say. I have no reason to believe there were, although the inhabitants interested were constantly complaining of the situation in which they were left, and were paying great fees to the office to obtain evidences of their papers being in the office. I must further state that the notary, Don Juan de Entralgo, had declined to take the oath of allegiance to our Government; that Governor Coppinger was respectfully applied to by me to deliver up the papers peaceably, before any resort was had to force; and when the papers were put into the hands of certain persons appointed to examine them, with directions to separate private papers from documents relating to the province, Governor Coppinger was given to understand that he, or any agent on his behalf, might attend the examination. As far as the examination has proceeded, many papers have been separated from the public documents, put into boxes, and reported to Mr. Worthington, for the purpose of being returned. By the citizens having property, and residing within the province, the conduct of the American officers in taking the papers was generally approved of.

Most respectfully, I am, &c.

JOHN R. BELL.

Hon. J. Q. ADAMS, Sec'y of State.

General Jackson to the Secretary of State.

NASHVILLE, January 22, 1822.

SIR: Your letter of the 1st instant reached me a few days since, in which you advise me of the receipt of mine of the 22d November, with its enclosures. I had also the honor to receive a copy of your communication, dated 2d November, to the Minister of Spain, together with the translations of two letters from said Minister, addressed to the Secretary of State, and transmitted to me by direction of the President of the United States. You inform me that the definitive answer to these letters will be deferred until you shall have the opportunity of obtaining my reply, with any remarks I may be disposed to make on the communications of the Minister of Spain.

I sincerely regret that Don Joaquin de Anduaga's letter of the 22d November had not been transmitted at an earlier period, as it will be necessary, in my reply, to refer you to two communications of Captain Bell, of the 31st July and 4th of August last, and to Mr. Worthington's letters on the subject of the archives at St. Augustine; the

first of which is on file in the executive office at Pensacola, and the last I forwarded to you when I was informed by Dr. Bronaugh that my resignation was accepted on the 1st ultimo, not expecting to have any further use for them. Immediately on the receipt of your letter, however, I wrote to Mr. Worthington, requesting him to forward you certified copies of his communications as promptly as practicable, and have adopted the same measure in relation to those of Captain Bell, although I had been advised that he had transmitted duplicates to you from St. Augustine. To these documents I must refer you, relying upon my answers thereto, and my own recollection, for their contents, and accompanying my reply with such vouchers as are within my reach; believing there will be ample testimony in your possession to enable you to rebut the statements of this Minister of the Spanish Government.

Upon the subject of seizing the papers at St. Augustine, you observe that the Spanish Minister dwells with much earnestness on the agreement which had been made between Colonel Butler and the late Governor Coppinger concerning these papers, and requests to be informed whether this agreement was known to me at the time the order was issued for demanding and receiving them; and, if so, to state the particular grounds on which I judged it necessary to resort to compulsory measures for obtaining possession of them.

In answer to this inquiry, I have the honor respectfully to state that Colonel Butler, the commissioner appointed to receive the transfer of East Florida from the Spanish Government, reached me on the 8th of August last, at Pensacola, and made his report. As soon as it was submitted to my examination, I was entirely satisfied that neither Coppinger on the one hand, nor Butler on the other, had any authority, either under the treaty or their instructions, to enter into such an agreement relative to the archives which were, by a positive stipulation between the two Governments,

have been delivered over, with the country, to the constituted authorities of the United States. The treaty was imperative, and vested the parties with no discretion on the subject. Believing, however, that the course adopted by Colonel Butler was perhaps the only one that could have been pursued, without the employment of force, to preserve the documents, and notwithstanding I was perfectly satisfied that Coppinger had, on his part, violated both the treaty and the order of the Captain General of Cuba, yet I felt disposed to leave the archives precisely in the same situation in which Colonel Butler had placed them under his agreement with Coppinger. I was induced to take this course, from a wish to create no unnecessary difficulties, and from a hope that the Spanish officers would comply with their arrangement, and permit the papers to remain unmolested until the arrival of the President's instructions in regard to their final disposition.

This Minister states that the commissioners, Butler and Coppinger, stipulated that the artillery and archives were to remain, the first in deposit, in possession of the Anglo-American com-

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missary, and the last where they were, and without the possibility of their being taken away to the Havana. He does not say what was their situation, but it will be recollected that the alcalde was their keeper. Nor does he tell you that Don Jose Coppinger permitted them to be picked, and culled, and taken away, in violation of his solemn pledge and agreement, as you will see by a reference being had to Captain Bell's letters to me of the 31st July and 4th August, 1821, duplicates of which I am advised are in your possession.

When I received these letters from Captain Bell, who exercised provisionally the powers and authorities of Secretary of East Florida before the arrival of Mr. Worthington, I acknowledge that my indignation was very much aroused. I felt that it was my imperative duty to protect the people of Florida in the enjoyment of the rights secured to them expressly under the treaty. I was bound to act on the occasion. The agreement respecting the archives, although void *ab initio*, for the want of power, had been outrageously violated by Coppinger, or with his connivance; and the evidences of individual rights secured to the citizens were about to be fraudulently conveyed away, after he had pledged himself to Colonel Butler that they should not be removed from that place, and should remain precisely as they were.

The verbal report of Colonel Butler, as communicated in my letter of the 4th August last, affords a clue to the motives of Colonel Coppinger in attempting to practise this base deception. For the last six months previous to the transfer of the country, it is believed he had been engaged in issuing surreptitious grants for large quantities of land in East Florida. It became necessary that they should be taken to the Island of Cuba, for the purpose of consummating the titles. These were no doubt the documents which were picked and culled from the balance, to be transported to the Havana, as Coppinger was convinced that the fraud would be inevitably detected if they should be surrendered to the American authorities. This explains the reason why and wherefore they were not delivered over to our commissioner in the first instance, and forms the basis of the confidential communication made to Colonel Butler on the 3d of July last, advising him that a large portion of these archives, relating to private property, were packed up for removal to Cuba, and which gave rise to his letter to Colonel Coppinger of that date, as will appear by the enclosed extract, marked E.

Speaking of the correspondence between Colonels Butler and Coppinger, Don Joaquin de Anduaga remarks that, "by the before-mentioned correspondence, it appears that doubts had arisen whether the artillery and certain archives ought not, to be delivered over to the United States." With due deference, I would ask, could any doubts exist as to the archives, under the second article of the treaty? No. Could any doubts be entertained relative to the archives embraced in the instructions of His Catholic Majesty, or the instructions given by the Captain General of Cuba to Don Jose Coppinger, Colonel, and com-

manding the Spanish forces at St. Augustine, and who was charged with the delivery of the country, and all documents relating to the property and sovereignty of the country ceded? It is presumed not. In his letter to Colonel Forbes of the 16th May, 1821, the Captain General of Cuba says: "Respecting East Florida, where there ought to be found all her archives, Governor Mahy would direct that Governor, as instructed by him with the important commission, to make a formal delivery to Mr. Forbes of that province, as well as of the documents belonging to it." "A similar despatch would be addressed to the commandant of West Florida." Here is a positive declaration that such instructions were or should be given to Governor Coppinger for the delivery of all the archives included in the stipulation of the treaty. Contrast this statement of the Captain General of Cuba with the answer of Governor Coppinger to Colonel Butler's letter to him, dated July 3, 1821: "Confining myself," he says, "to a compliance with the treaty and the orders of my Government," (which, he informed Colonel Butler verbally, prevented him from delivering the archives,) "their literal sense is the only guide to my endeavor in the execution; and when any doubts arise, I consult them with that frankness necessary to ascertain my course, and warrant my responsibility."

From this exposition, no one can fail to discover a striking contradiction between the Captain General (Mahy) and Governor Coppinger; the former assuring Colonel Forbes that he would direct Governor Coppinger to deliver over the documents to the American authorities, and the latter asserting that, "as an individual, he believed they should be given over;" (see E e.) but that the orders of his Government prevented him from performing that duty. We can find no excuse either for the Captain General, Governor Coppinger, or Colonel Callava, for not complying with the orders of their superiors, and with good faith carrying into effect the second article of the treaty, by delivering, and being prepared to deliver over all the archives and documents appertaining to the property and sovereignty of the Floridas. Instead of this, the Captain General does not deliver them at Cuba; Coppinger, contrary to his orders, was preparing to convey them away in a clandestine manner, in violation of his agreement and solemn pledges, until arrested in his faithless conduct by Colonel Butler; and Callava, whilst professing to surrender all the archives, &c., was wickedly and treacherously attempting to carry away the testamentary papers of the heirs of Vidal, and other documents, which were the evidences of claims to private property in the country ceded to the United States.

The unjustifiable delays and evasions of the officers of Spain in withholding the archives and documents, of which the delivery had been expressly stipulated by treaty—vouchers indispensable to the United States, for the dispensation of private justice and the establishment of private right, but entirely useless to Spain—could not but impress upon me the belief that they were intended to subserve the purposes of injustice, fraud, and

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oppression. The attempt to carry away a number of those documents from St. Augustine and Pensacola in a clandestine manner was considered as a flagrant violation of the treaty; and I began to entertain the opinion that a systematic combination had been formed amongst the officers of Spain to deprive the honest citizens of the country of all the evidences of their right to property secured to them by the provisions of the cession.

Under these impressions, and believing myself vested with legal authority to protect the rights of the citizens, I was urged, by the most imperative duty, to exercise it in their behalf. Upon the receipt of Captain Bell's letters, before referred to, advising me that the archives at St. Augustine were picked and culled, to be conveyed away, I forthwith wrote him, on the 1st of September, 1821, the letter herewith enclosed, marked C, of which the following is an extract:

"I have this moment received your several letters of the 31st July and 4th August, with their enclosures, and regret that the shortness of time will not permit me to answer in detail. On the subject of the archives, I will barely draw your attention to the second article of the treaty with Spain, according to which all archives or documents directly relating to the property or sovereignty of the country are to be delivered by her. You will, therefore, forthwith, on the receipt of this, if not already in possession of them, take them into your possession, and place them in the hands of the alcalde for safe-keeping, and who ought to be, like every other, a sworn officer under the Government, and not a Spanish officer owing no allegiance to the United States. All papers and documents in the possession of the cabildo, and, of course, in the possession of American and not Spanish functionaries, are to be retained, and none of them permitted to be culled and taken away." "I am gratified with the friendly expressions of the cabildo of St. Augustine, but am sorry to find they have so entirely mistaken the sense of the proclamation. Nothing could be more absurd than that Spanish officers, as such, should administer the Government. The true meaning is, that, whenever the incumbent will take the oath to support the Constitution of the United States, and abjure that of Spain, and take the oaths of office, he shall be continued therein. That part of the proclamation which enjoins fidelity to the Government of the United States would otherwise be nonsense; and the Government has, at all times, the power to remove or dismiss him, and supply his place; but this will not be done unless it be found that he is incompetent to his trust, or unfaithful; and, whenever either is the case, this power, for the benefit of the public, ought to be exercised."

Having previously addressed Captain Bell a letter on the 13th of August, 1821, a copy of which is enclosed, marked D, and forwarded it to him by Mr. Bird, attorney for the United States in East Florida, I was gratified to find, from his answer, that, before the receipt of either of my communications, himself and Mr. Worthington had taken the steps necessary to preserve the

archives, and extend to the people of East Florida that protection which was secured and guaranteed to them under the treaty.

When it is recollected that the archives and documents relating to the property and sovereignty of the Floridas were to be transferred with the country, agreeably to the stipulations of the treaty, and that Governor Coppinger had been ordered to deliver those in East Florida, what indignation must fill every honest and honorable breast when we learn from the letter of the keeper of these papers at St. Augustine that he claims them as private property, which he had acquired by purchase? From whom could this purchase have been made? From the King? No; because he had stipulated to surrender them, with the country, to the American authorities. If bought at all, it must have been effected with the executive magistrate of the province. In either event, it must have originated in the grossest corruption, and was rendered null and void by the treaty between Spain and the United States.

Although Don Joaquin de Anduaga has taken occasion to heap upon me the most illiberal and indecorous epithets, he is challenged to substantiate a single instance in which myself, or those acting under me, have not scrupulously executed every article of the treaty with Spain.

It appears that the Minister of Spain considers his sovereign as having been insulted in the person of his commissary, Colonel Coppinger, at the time the seizure of the papers was effected; he insists that Colonel Coppinger was entitled to all the privileges and immunities of a public officer of Spain, in consequence of his being recognised as such in doing and transacting business with Captain Bell. The fact was, that Captain Bell was not vested with any diplomatic or commissarial powers, and any such recognition on his part was as ineffectual as it was without authority.

By turning to the act of cession executed by Colonel Butler and Jose Coppinger, it will be distinctly seen that neither of those persons retained any powers as commissioner after the date of that instrument. If this was the case, it must be equally evident that neither Captain Bell nor Mr. Worthington could have possessed such powers at the period to which the Spanish Minister has alluded. Colonel Jose Coppinger being the commander-in-chief, and Governor *ex officio* over East Florida, he was charged, under the treaty, with the delivery of the country and the withdrawal of the Spanish troops. The moment these duties were performed, both his and Colonel Butler's powers as commissioners ceased. This event took place on the 10th July, 1821, when the Spanish authorities ceased the exercise of their functions, as is demonstrated by the following extract from the act of cession:

"There has been verified, at four o'clock of the evening of this day, the complete and personal delivery of the fortifications, and all else of this aforesaid province, to the commissioners, officers, and troops of the United States, and, in consequence thereof, having embarked for the Havana the military and civil officers and Spanish troops in the American transports provided for this pur-

Spain—Delivery of the Floridas.

pose, the Spanish authorities having this moment ceased the exercise of their functions, and those appointed by the American Government having begun theirs," &c.

The surrender of the provinces had been completed, and the occasion which created commissioners ceased to exist. The authority and troops of Spain were withdrawn, and the United States put in entire and rightful possession of the country. The six months had also transpired within which the treaty provided the transfer of sovereignty should be made, as well as the evacuation of all the Spanish officers within the Floridas. Colonel Coppinger, remaining after the occurrence of these events, could no longer be considered as entitled to the privileges and immunities of a public agent; he could only be viewed as a stranger, permitted to reside in the Floridas, "amenable to the common judicial tribunals, but who, conformably to the Spanish laws existing before the cession of the province, would have been liable to removal from it, or to imprisonment, at the discretion of the Governor, for the mere act of being there."

These disclosures, I hope, will exempt me from the criminal charge which Don Joaquin de Anduaga has preferred against me, of having trampled upon the law of nations and the law of every civilized country. If the detection of treachery and prevention of fraud, the security of the rights of the citizen, and a scrupulous adherence to the articles of the treaty which both Governments were sacredly bound to fulfil, are to be considered atrocities, I have to observe that I glory in the charge, and give this further assurance—that it is the course which I shall always pursue. I would inquire of this Minister whether the law of nations protects the agents of Spain in the open violation of the treaty, the rights of individuals, and the orders of their Government? Does this law sanction the non-compliance with the most solemn engagements, by which the rights of individuals were to be sacrificed, by depriving them of those evidences of property stipulated to be delivered over with the country ceded? If so, then is every treaty a perfect mockery, and the law of nations becomes the authority for every species of fraud and corruption. Coppinger and Callava might not only have carried away all the archives of the country, but also the negroes, or moveable property, and their agency would have secured them from merited punishment.

To the remark of the Spanish Minister, "that the more my conduct is considered, the more evident it is that my sole object has been to insult Spain," I have to observe, in reply, that it is unjust. I challenge Don Joaquin de Anduaga to establish the fact necessary to authorize such a conclusion. If I know myself, I can declare, with the utmost confidence, that I have never entertained any thing like national antipathies, and that my conduct on no occasion has ever been influenced by such base and unmanly considerations. All the measures of my administration, whilst Governor of the Floridas, were founded upon the principles of justice, the object of which was to secure to the United States, and the people who

were citizens of the ceded provinces, those rights which were guaranteed to them under the cession, and which the officers of Spain had wantonly violated, in contravention of the treaty, the positive orders of their superiors, and their own solemn pledges and engagements. The virtuous and honorable Spaniard claims the same share of my respect and confidence as the citizens belonging to any other nation. I rejoice in the regeneration of Old Spain, and in the independence of the American colonies, and hope that both may free themselves from that misrule and oppression with which they have been cursed for centuries past under former Governments.

The language used throughout the letters of the Minister of Spain, and the charges therein contained in relation to myself, cannot but be viewed as an insult to my Government, to the American people, and to the officer whom he has endeavored to cover with odium and disgrace. It is derogatory to that comity and decorum which should always characterize diplomatic communications, and which are essential to the harmony and friendly intercourse of nations. In reply, I confidently trust that the President of the United States will take such a stand as shall secure the respect due from foreign Ministers to his exalted station, to the officers of the Government, and to the nation over which he presides.

It is a subject of remark, that I have been the object of Spanish calumny and virulent animadversion ever since the transactions of the Seminole war. This spirit of hostility is to be discovered in the observation of Governor Mahy to Colonel Forbes; in the letter of the latter to the Secretary of State of the 20th May, 1821; in the protests of Colonels Coppinger and Callava; and has pervaded all the diplomatic communications of Spanish Ministers subsequent to the period to which I have alluded. Although such a course is insulting to myself, to the Executive, and to the American people, I have never deemed it of sufficient importance to induce me to complain.

Feeling a confidence in having always discharged my duty whilst in the service of my country, I disregarded the abuse and vituperation of Spanish agents, from a belief that my Government would vindicate its honor and dignity; this, I flatter myself, will yet be accomplished in due time. A considerable portion of my life has been devoted to the happiness, honor, and glory of my country; and when my conduct has met the approbation of the Government, I have a right to expect that it will resist any attempt to slander my reputation. Notwithstanding I solicit the most free and unrestrained investigation into all the measures of my public life by those to whom I am responsible, it is conceived that the same latitude should not be granted to the Ministers of foreign Powers: such an interference is rude and indecorous, and should be resented on all proper occasions. This, it is believed, is not due to me alone, but to the President and the nation.

I am, sir, with sentiments of great respect, &c.

ANDREW JACKSON.

Hon. J. Q. ADAMS, *Sec'y of State.*

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C.

General Jackson to Captain Bell.

PENSACOLA, September 1, 1821.

SIR: I have this moment received your several letters of the 31st July and 4th August, with their enclosures, and regret that the shortness of time will not permit me to answer in detail. On the subject of the archives, I will barely draw your attention to the second article of the treaty with Spain, according to which all archives and documents directly relating to the property or sovereignty of the country are to be delivered by her. You will, therefore, forthwith, on the receipt of this, if not already in possession of them, take them into your possession, and place them in the hands of the alcalde for safe-keeping, and who ought to be, like every other, a sworn officer under the Government, and not a Spanish officer owing no allegiance to the United States. All papers and documents in the possession of the cabildo, and, of course, in the possession of American and not Spanish functionaries, are to be retained, and none of them permitted to be culled and taken away.

I am gratified with the friendly expressions of the cabildo of St. Augustine, but am sorry to find they have so entirely mistaken the sense of the proclamation. Nothing could be more absurd than that Spanish officers, as such, should administer the Government. The true meaning is, that, whenever the incumbent will take the oath to support the Constitution of the United States, and abjure that of Spain, and take the oaths of office, he shall continue therein. That part of the proclamation which enjoins fidelity to the Government of the United States would otherwise be nonsense; and the Governor has, at all times, the power to remove or dismiss him, and supply his place; but this will not be done unless it be found that he is incompetent to his trust, or unfaithful; and, whenever either is the case, this power, for the benefit of the public, ought to be exercised.

I have read Mr. Fitch's report to you, and have discovered that he has viewed the constitution of Spain as in full force in the Floridas. This is not the fact. On the 4th May, 1814, it was annulled, and every act and decree passed in pursuance of it declared illegal and void. It was never re-established until 1820, after the Floridas had been ceded to the United States. Of course, Spain could not legislate for a country not her own. The first act after the re-establishment of the Cortes was to recommend the ratification of the treaty of cession; and no decrees of the Cortes were ever promulgated in the Floridas until after the ratification of the treaty. It would be strange, indeed, if Spain could legislate for a country whose sovereignty and property had passed out of her hands. The act of Congress for the occupation of the Floridas, and my proclamation, will, I think, clearly show that the Spanish constitution was not taken into view. They are precisely similar to those which preceded the occupation of Louisiana. Besides, the constitution merely provides for a form of government, of which the judiciary

is a part, and a part which cannot be separated without being imperfect; and even this judiciary was never established in the Floridas by decree of the Cortes, not to speak of its entire incompatibility with the nature of our Constitution and Government. The mere circumstance of uniting in the same person the different offices of captain general, intendant, and provincial governor, and leaving it to the President to prescribe the manner in which the powers of the existing officers shall be exercised, shows that there was no intention to pursue the Spanish plan of government.

The ordinances heretofore sent you are intended to distribute and organize a government, approximating as nearly as practicable to that of Spain, and formed out of the powers with which the Spanish officers were clothed. It must be borne in mind that, although Spanish laws and usages are in force, excepting so far as they may be expressly altered, yet the Spanish Government has ceased.

Mr. Fitch's ideas as to the powers of the judge appointed by the President, so far as relates to the carrying into effect the acts extended over the Floridas, are correct; but the judge can exercise no other powers, unless specially given him by the instructions of the President. Such instructions have not been given, and I doubt very much whether the President could legally give them. There is no doubt that the person exercising the powers of the Governor of East Florida can exercise all the powers exercised under the King of Spain at the time the country was ceded. The Governors of the Floridas exercised judicial powers as late as the 10th July, 1820. This was up to the re-establishment of the Cortes, and the ratification of the treaty; and, to the very delivery of the country, admiralty jurisdiction.

On the subject of the archives, I have again to repeat that you will take them into your charge. Governor Coppinger's powers having ceased with the delivery of the country, he cannot be considered, as respects the United States, any more than any other individual. He is not recognised in any official capacity; he has, therefore, no right to demand any papers in the possession of the United States officers, or to hold any official correspondence on any subject arising since the delivery, by which act his official character, as to us, ceased; and even the subjects of difference which arose before the delivery were referred to the respective Governments.

Captain Willis is now here, on his way to St. Augustine; but, fearful of not being able to reach that place before the second Monday in this present month, he has therefore halted, to hear from you whether the clerk's office for the county of St. John is kept open for him. If it is, he will repair there as soon as advised of it at this place; and you will please to address him to the care of Cary Nicholas, postmaster, Pensacola.

On the subject of Indian agent, I have this day addressed a letter to the Secretary of War on that subject, enclosing Mr. Pennier's letter to him, and Mr. Dexter's.

Should you know where Mr. Pennier is, please

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to inform him that I have been waiting for him to report to me in person, and that I have a letter from the Treasury Department for him.

I am, with sentiments of respect, &c.

ANDREW JACKSON,
Governor of Florida, &c.

Captain JOHN R. BELL.

D.

Governor Jackson to Wm. G. Worthington, or Captain J. R. Bell, exercising the powers of the Governor of East Florida.

PENSACOLA, August 13, 1821.*

SIR: On the 28th ultimo I despatched an express, Captain Hanham, to you, with sundry ordinances that I found it necessary to adopt for the better organization of the Floridas; the ordinances are only a declaration of what the Spanish law really is, and what its operations under the Cortes would have been; the constitution of Spain providing for the trial, by jury, in criminal cases, although never extended to the colonies, because the treaty ceding the Floridas was concluded before the constitution was adopted and carried into execution in Spain.

When I took possession here, I found nothing but an alcalde, which was filled by a Spanish military officer, who could not, therefore, hold it under our Government. I appointed an alcalde, Judge Brackenridge, in whose custody all archives received were placed. Finding that a cabildo had once existed here, I ordained the re-establishment of it in that of a mayor and aldermen of the city, adding a board of health to it; and there being no judge, I created a county court, with the powers that this court would have held under the constitution of Spain, and that of the United States.

Colonel Butler reached me on the 8th instant, and reports that he found at St. Augustine an alcalde, a cabildo, and a judge, all in operation. This will afford you great relief in carrying into effect the ordinances sent you by Captain Hanham. In every instance where the incumbents in office will take the necessary oaths of office, and are, in your opinion, of good moral character, and fit for the office, you will continue them. I have found but few here of the Spanish inhabitants that would accept an office under our Government, not having determined of themselves whether they will become citizens of the United States; and believing that taking an oath of office would be considered their election to become citizens, they have, in most instances, refused.

It is necessary, on the change of government, that all officers who are to execute it under the United States should take the necessary oaths of office, and, when this is refused, you will fill the vacancies thus occasioned by new appointments, even when the old incumbents will remain, and especially in the latter case; for, as Spanish officers, they cannot execute the government under the United States.

This will be handed you by Mr. Bird, who has

the appointment, by the President of the United States, as attorney for East Florida.

I am, with great respect, &c.

ANDREW JACKSON.

E.

Extract of a letter from Governor Coppinger to Colonel R. Butler, under date

JUNE 23, 1821.

I answer your esteemed note of yesterday, assuring your Excellency, as I mentioned in my letter of the 19th, that, until I received the answer of my Government on the doubts arising on the delivery of the public archives relating to the individual property of the inhabitants of this province, and on which I have, on this date, written for information, they shall not be removed from this place, and shall remain precisely as they are. I shall likewise remain here until this point is decided, as well as that on the artillery, on which I have made my report; and, in the meantime, have formed an exact inventory of the documents contained in these archives.

Extract from Colonel Butler's letter to Jose Coppinger, Governor, &c., dated

JUNE 26, 1821.

The subject of the archives relating to individual property I consider perfectly understood between us, and will, therefore, remain silent on that head until you receive the further instructions of your Government in relation thereto.

Extract from Colonel Butler's letter to Governor Coppinger, which was predicated upon information, received confidentially, that a large portion of the archives relating to private property were packed up for removal to Cuba, dated

JULY 3, 1821.

That a more perfect understanding should exist between us in relation to the archives which are embraced by the treaty of cession, and relating to individual property, is the object of this communication.

I should, upon mature reflection, consider myself wanting in my duty to the inhabitants of this province, who are about to become citizens of my Government, if I withheld any statement in relation to the archives, which might lead to the removal of any document that would be of importance to their security, and which my Government considers as included in the treaty. The following records are deemed indispensable to this object, viz: the royal or other orders, authorizing the Governor of this province to issue grants for lands, lots, or squares; the evidence of indemnity offered by Great Britain to her subjects, who might leave their property in this province and retire to her territory, after the cession of Spain; the proclamation of the Spanish authorities, calling on those individuals to come and dispose of their property, or peaceably occupy it within certain periods, or the same would be confiscated, and the order of confiscation thereafter; the ori-

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ginal records of all grants made in the province, either by His Catholic Majesty, the Captain General of Cuba, or the Governors of this province, respectively; the original records relating to all trials and decisions embracing individual property; and the original records relating to the execution of wills and administration of estates.

The foregoing explanation is given to show you what I am bound to consider as the archives relating to individual property, and which are not to be removed from this place until the decision is had on the subject by our respective Governments.

The answer by Governor Coppinger.

The note your Excellency was pleased to send me yesterday, in order to point out which are the records comprehended in the treaty of cession, and appertaining to private property, I have duly examined, and have to answer that, confining myself to a compliance with the treaty and the orders of my Government, (which, he informed Colonel Butler verbally, prevented him from delivering the archives,) their literal sense is the only guide to my endeavor in the execution; and when any doubts arise, I consult them with that frankness necessary to ascertain my course, and warrant my responsibility.

Thus actuated, I early informed your Excellency of the measures which I had taken with respect to the public archives, or escribano office, or records bearing on private property of the inhabitants of this province—measures to which your Excellency was pleased to accede.

It now appears that your Excellency advances pretensions to other documents that, I am sorry to say, are, according to my conception, excluded from the delivery. I do not comprehend the ground upon which you found your demand; therefore, and in order to report to my Government, by the earliest opportunity, that it may decide with yours on these points, and, at the same time, on those others in question, your Excellency will excuse my not entering into particular observations on each of them.

Extract of Colonel Butler's answer, dated

JULY 5, 1821.

In answer to the note of yesterday, which your Excellency has done me the honor to address to me, I beg leave to remark, that the only ground assumed on my part, in making the communication of the 3d instant, was that of the faithful performance of my duty to my Government, and the individuals who are about to become citizens thereof; and I did not expect you to enter into particular observations on the subject of that letter, but I wished to give you timely information of what documents I considered to be the archives in our arrangement, and would be esteemed under the treaty sufficient to guaranty the possession of the inhabitants in their property, and that they might not be removed until the decision was had on the subject, when I could adopt such further

amicable measures as are warranted by my instructions.

If I comprehend your Excellency aright, it is, that you will communicate a copy of that letter to the Captain General of Cuba.

Extract of Colonel Butler's letter to Captain J. R. Bell, dated

ST. AUGUSTINE, July 11, 1821.

The foregoing extracts are given you as the evidence of the actual situation of the archives relating to private property, and the decision of the Government of the United States must determine the necessary steps to be taken thereon.

The balance of the above letter relates to subjects unconnected with the archives.

ROBERT BUTLER.

E e.

Colonel Butler to General Jackson.

HERMITAGE, January 21, 1822.

SIR: On reading the correspondence between Colonel Forbes and the Captain General of Cuba, I find a promise, on the part of the latter, that the Governor of East Florida would be ordered to deliver over the archives to the American authorities; and this duty not having been performed, I consider it proper to advise you that, in the month of June last, Colonel Coppinger, late Governor of East Florida, stated to me, in a conference had on the subject of the delivery of the archives relating to individual property, that, as an individual, he believed they should be given over to the United States, but that his orders prevented him from turning them over. I mentioned to him that I had heard a report, as a reason for not turning them over, that it would be to the interest of the United States to destroy them; and remarked, that I regarded not the source from whence it came, as it could alone spring from the most wicked and unprincipled heart. As there appears an absence of good faith in the execution of the late treaty, I give you this information for the benefit of the Government.

I have the honor to be, very respectfully, your most obedient servant,

ROBERT BUTLER,
Late Commander in East Florida.

Mr. Worthington to General Jackson.

ST. AUGUSTINE, November 9, 1821.

SIR: I have the honor to acknowledge the receipt of your highly esteemed favor of the 1st ultimo; its delay may be accounted for from this remark on the envelope: "Missent to and forwarded from Washington City, October 24, 1821."

Your approbation of my humble but honest exertions to anticipate and fulfil your intentions in the organization of this Government, I receive with sentiments of no ordinary sensibility. I assure you I had difficulties to contend with, which, had they assailed me from a legitimate quarter, I should not have valued them "a pin's point;"

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but, coming from a point of the horizon where I looked for only invigorating and cheering sunshine, it was peculiarly calculated to diminish and enervate my powers and official weight. I saw the whole ill policy with regret, but not dismay. I was determined the Spaniards should not see and triumph in the spectacle of the Americans quarrelling among themselves. Under the blessings of Heaven, I felt I could weather the storm, and I was conscious of your support. Your letter before me has shown I was not mistaken.

The affair of the Government-house is handsomely settled, as you will see by my correspondence, predicated on your opinion, with Colonel Eustis, marked Nos. 1, 2. To show you that I was uniform in my sentiments respecting the harmony which ought to exist between the civil and military authorities, (of your high encomium of which I am proud,) I enclose you two letters marked Nos. 3, 4. I would indeed give a mass of private evidences of this matter, but I take my leave of it, I hope forever, and sincerely pray your pardon for being so troublesome on such an affair.

I thank you for your advice on my probable intercourse with the Indians; I shall be governed by it literally. I intend, if practicable, to prepare a splendid talk for them; but they shall understand two things, at least, very distinctly: the non-natives must return amongst the Creeks; and the natives, if they stay in Florida, must be concentrated.

I sincerely hope, sir, that the visit of yourself and family to Tennessee will be as agreeable as it is no doubt judicious; and as for myself, I will endeavor to merit the additional proof of confidence which you have reposed in me during your temporary absence. Should you pay us a visit here, we will try to make the best fixture we can; but the yellow fever has sadly cut us up; even now it rages; God knows when it will stop; the first black frost, they say, is a certain bar to it; that may not come till January, if then. Yesterday, at my room, in the shade, the thermometer stood at 72; this is as cool as we have had it; at one P. M. I put it in the sun, and in ten minutes it rose to 105, so that I really do not know when we shall get rid of this plague.

I will now, sir, take leave to lay before you the remainder of the proceedings respecting our taking possession of the archives, &c.; they are marked No. 5. Any further course which you, or the Government at Washington, may direct concerning them, I will adopt; and in the interim, if any thing shall suggest itself to me as necessary to be done in the premises, I will progress in it.

The ex-governor, Coppinger, like his compeer Callava, I see, by a Charleston paper, publishes the proceedings as an "outrage." Nobody who knows the Spaniards, as the President, yourself, and many others of our countrymen, will pay much attention to those sorts of appeal. But, unfortunately for persons in public stations who get into disputes with them, too many of our fellow-citizens take sides with them because they know nothing about them. If it should be thought best, it is probable some of us who have been assailed

may follow the example set at Pensacola, and publish a statement of the transaction.

As to myself, I intended to do what was right and proper, and hope my proceedings may meet your approbation. My fortune amongst the Spaniards, on both sides of the equator, has been to incur their dislike and hostility; yet, I trust, not of the good, liberal, and high-minded, on either side. Judge Duval and Mr. Hackley have not yet arrived.

With respect, &c.

W. G. D. WORTHINGTON,

Secretary and Acting Governor of E. F.

HIS EXC'Y ANDREW JACKSON,
Governor of East and West Florida.

Mr. Reynolds to General Jackson.

ST. AUGUSTINE, Nov. 13, 1821.

The other documents referred to by Governor Worthington cannot be forwarded by this mail, as much of our time must be necessarily devoted to the sick, the dying, and the dead. His Excellency residing in the island, about a mile and a half distant, prevents me from giving him this information previous to the departure of the mail. But being desirous that nothing which is in readiness should be delayed, I send you this letter to the commissioners, (No. 5,) upon their having closed the examination of archives and documents, &c., as far as was practicable under the circumstances.

Very respectfully, your obedient servant,
WM. REYNOLDS,
Private Secretary.

HIS EXC'Y ANDREW JACKSON,
Governor of the Floridas.

No. 5.

Governor Worthington to John R. Bell, James G. Forbes, and Edmund Law.

ST. AUGUSTINE, Nov. 7, 1821.

GENTLEMEN: I had the honor to receive your additional report of the 5th instant on yesterday evening, on the subject of the records and archives.

I felicitate you on the conclusion of the difficult and laborious duties which it was deemed necessary to assign to you, which you so cheerfully undertook, and so faithfully have discharged. I have been an eye-witness to the open and assiduous manner in which you conducted the investigation, and have no doubt, when the voluminous mass which you have transmitted shall be criticised, it will prove to be an honest and able examination.

Without detracting from the other commissioners, I must be permitted to pay a particular compliment to the President, who, during the whole tedious inquiry, while the epidemic raged in this city, with the most assiduous punctuality, presided at the board. I know the various duties of Colonel Forbes and the sickness of Mr. Law prevented them giving such full attendance as they otherwise would have done. I am perfectly satisfied with them and the whole board. You will be pleased to present my respects to the secretaries, Messrs.

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Betham, Guy, Lynch, and Reynolds, for the faithful discharge of their duties.

And now, gentlemen, I must be permitted to say, notwithstanding the clamor which has been raised on a similar proceeding respecting the archives at Pensacola, and even against the affair here, you have conducted and finished this commission in a manner to challenge the approbation of every disinterested and honest American in our country, and, I hope, even of every unprejudiced Spaniard, who possesses one spark of true Castilian honor and sincerity. With great respect, &c.

W. G. D. WORTHINGTON,

Secretary and Acting Governor of E. F.

JOHN R. BELL, JAMES G. FORBES, and EDMUND LAW, Esqs.

Extract of a letter from General Andrew Jackson to the Secretary of State.

HERMITAGE, NEAR NASHVILLE.

January 31, 1822.

Enclosed I send you an extract of a letter from Colonel George Walton, Secretary of West Florida, and charged with exercising the powers of Governor of the same, in my absence, with its enclosure. Having received from the President of the United States his letter bearing date the 31st December last, post-marked at the City of Washington, the 9th instant, notifying me that my resignation was accepted, forecloses me from giving to Colonel Walton any instructions officially, and I have thought proper to refer him to the President for directions as to the proper course to be pursued with regard to those Spanish officers. Colonel Coulon is father-in-law to John Innerarity. Guillemard is a very base and treacherous man, being the same who piloted the British up Bayou Bienvenue in the year 1815, then an officer of Spain, when the attempt was made upon New Orleans by General Pakenham.

I also enclose herewith, marked No. 2, for the information of the President of the United States, the certificate of Mr. Henry Wilson, a man of respectability, that goes to show the fraudulent practices committed by the officers of Spain, with regard to land titles in the Floridas, and forcibly adds to the propriety of adopting the rule I have heretofore recommended, of appointing none to the office of commissioners for the adjudication of land titles in Florida but those of honesty, integrity, and entirely disinterested. Should this rule not be adopted, great frauds will be imposed upon the United States.

Extract of a letter from Colonel George Walton, Secretary of West Florida, and exercising the duties of Governor of the same, to General Jackson, dated

JANUARY 7, 1822.

A few days ago, two of the Spanish officers, Colonel Marcos de Villiers, generally called Colonel Coulon, and Arnaldo Guillemard, arrived here in a vessel from Havana. It was first intimated to me that they had resigned their commis-

sions in the Spanish service; but when arrested by my order, and brought before me, they declared they had come with the intention of asking permission to attend in person to the settlement of their private affairs, and the removal of their families. They solemnly declared that they had not returned in defiance of the proclamation, which they had promptly obeyed, and that they are ready to submit themselves to any order which should be taken in their case. For the present, I ordered them into confinement; but the calaboose being in no condition to receive them, (for, excepting the officers' room, it has no fire place,) and as Coulon is a very old man, and his wife at this time extremely ill, I thought it best to confine them in their own houses. The situation of old Coulon was such that it would have been cruel to confine him in the dungeon with the common malefactors; and I could not, with propriety, make a distinction with respect to Guillemard. They then presented the enclosed memorial, in which they throw themselves on the mercy of the Government.

After these concessions, and the humble manner in which they sue to be permitted to remain, I was well convinced that you would have granted them the indulgence they prayed for. But, under my instructions, although a state of things was presented, by the returning sense of propriety on the part of these people, different from what is contemplated in these instructions, yet I did not consider myself authorized to go any farther than to continue them in the same confinement under further orders. I was well convinced that while, on the one hand, you were determined to cause the Government provisionally established over these provinces to be respected by every one living under it—and, as far as you were concerned, to cause the stipulations of the treaty to be enforced—yet I also knew, from the magnanimity of your disposition, that you would instantly relent on the first manifestation of respect to the Government, and submission to its determinations. This course, however, was not adopted by me until after consultation with Colonels Fenwick and Clinch, Major Denkins, and Judge Brackenridge, who all concurred in the opinion that this was, under all circumstances, the most proper.

The sixty days in the case of Innerarity having expired, application was made for execution, as nothing had been offered by him in the mean time on any claims put in by creditors. He had got the papers on his receipt, as had been customary, and, when called upon, I found he was disposed to try his old tricks; on which I had a notice served upon him to show cause at eleven o'clock this day why an attachment should not issue. I had determined to commit him instantly if the papers were not then produced, and to keep him in prison until they should be forthcoming. He took the hint, and left them with Mr. Cannon last night. A long memorial by Mr. Acre was presented, praying a review of the whole proceedings; but I shall pay no attention to it, and will now proceed forthwith to compel the payment of the money.

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I learn from St. Augustine that the splendid talk alluded to in my last, has entirely failed, from the unaccountable and singular circumstance of there being no Indians to listen to it, as none attended on the occasion, although a considerable concourse of whites, who had assembled on the beautiful plains of Atlathua, waited impatiently several days for their arrival.

Colonel Walton to Colonel Clinch.

PENSACOLA, January 21, 1822.

SIR: I have to request that you will direct that such portion of the troops under your command as may be necessary shall be furnished, to carry into effect the proclamation issued by General Jackson in September last, requiring the departure of certain Spanish officers from the Floridas—two of the officers named in that proclamation having returned to this city without permission.

I have the honor to be your obedient servant,

GEORGE WALTON,

Sec'y of West Florida, Acting Governor.

Colonel D. L. CLINCH,

Commanding the post of Pensacola.

To Captain WILSON, the Officer of the day:

You are hereby commanded, forthwith, to apprehend and bring before me, at the Executive chambers, Marcos de Villiers and Arnaldo Guillemard, that they may be dealt with according to law, for the contempt and disobedience of a certain proclamation issued by his Excellency General Andrew Jackson on the 29th day of September, 1821, requiring the said Marcos de Villiers and Arnaldo Guillemard to withdraw themselves from the Floridas.

Given under my hand and private seal, (there being no seal of office,) this 2d day of January, 1822, at Pensacola, in the province of West Florida.

GEORGE WALTON,

Sec'y of West Florida, Acting Governor.

By the Acting Governor:

SAMUEL FRY, *Private Secretary.*

EXECUTIVE CHAMBERS, PENSACOLA,
January 2, 1822.

Marcos de Villiers and Arnaldo Guillemard having this day been brought before George Walton, Esq., Secretary of West Florida, and Acting Governor of the same, by virtue of his warrant, that they might be dealt with according to law for the contempt and disobedience of a certain proclamation issued by his Excellency Major General Andrew Jackson on the 29th day of September, 1821, requiring the said Marcos de Villiers and Arnaldo Guillemard to withdraw themselves from the Floridas, and having been required to show cause why they should not be committed to prison for the said contempt, were heard by counsel; and his Excellency the Acting Governor, not being fully advised as to the matter offered by them in excuse of their return to this province, granted

further time to the said Marcos de Villiers and Arnaldo Guillemard, until to-morrow at 10 o'clock in the forenoon, to show further cause, &c.; and, in the mean time, they were ordered to consider themselves under arrest, and confined to their own houses by parole of honor.

To His Excellency George Walton, Governor of the Floridas, &c. The memorial of Marcos de Villiers and Arnaldo Guillemard respectfully represents:

That your memorialists, with other Spanish officers, were, by the proclamation of his Excellency Andrew Jackson, Governor of the Floridas, issued on the 29th of September last, ordered to quit the Floridas within three days thereafter, for reasons therein assigned. That your memorialists, in obedience to the said proclamation, withdrew from the said provinces, and repaired to the island of Cuba; and that, after being there some time, they found themselves compelled, from the situation of their private affairs, and the illness of a part of their families, to return to this country. That, in so doing, nothing was further from their intention than any disrespect to the constituted authorities of this province, whose determinations they declare themselves ready to observe and obey so long as they remain in the same. But they beg leave respectfully to represent that, at the same time, they are Spanish officers; they and their families have also been inhabitants of this country for many years; and that they are owners of real and personal property here to a considerable amount. That, by the fifth article of the treaty, the inhabitants of the ceded provinces who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject in either case to duties. That your memorialists are desirous to remove with their families to the Spanish dominions; and that, unless permitted to remain here and superintend in person these necessary arrangements, they will be exposed to serious loss and injury.

Your memorialists therefore pray that, taking the circumstances into consideration, and especially their solemn declaration that they return not as Spanish officers, but as private individuals, on private business, and with every disposition to obey and respect the existing authorities, they may be permitted to remain for the purpose of settling their affairs, and making the necessary arrangements for the removal of their families.

MARCOS DE VILLIERS,
ARNALDO GUILLEMARD.

JANUARY 3, 1822.

EXECUTIVE CHAMBERS, PENSACOLA,
January 5, 1822.

I have maturely considered the memorial of Marcos de Villiers and Arnaldo Guillemard. Although well satisfied, from the known magnanimity of General Jackson, that, if he were present, the petition would be granted, yet, from the circumstances in which I am placed, I consider my-

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self compelled to continue the present arrest and confinement till further orders.

GEORGE WALTON,

Sec'y of West Florida, Acting Governor.

A true copy from the records:

SAMUEL FRY, *Private Secretary.*

No. 2.

H. Wilson's certificate.

PENSACOLA, January 6, 1822.

I do hereby certify that, some time last Spring, I made a purchase of Henry Michelet of this place, of a tract of eight hundred arpents of land on the Escambia, according to the plat of survey accompanying the grant; and on a view of which plat, the grant was confirmed by the Intendant General of Havana. About two months ago, having taken an American surveyor to examine the lines, it was found that the Spanish survey was a mere fiction, it being absolutely impossible, from the nature of the ground, and the course of the river, to obtain a tract of eight hundred arpents in any way agreeing with the description in the plat. When this was made known to Mr. Michelet, and he was convinced of the fraud, he proposed to me to make a survey of any vacant lands I should choose; that he could have the plat of this land withdrawn from the title-papers, and send the new survey to Havana, and have it certified by the surveyor general, and inserted in the place of the first. This proposal I rejected with indignation, as dishonorable to me as an individual, and a fraud upon my Government.

HENRY WILSON.

The Secretary of State to Mr. Walton.

DEPARTMENT OF STATE,

Washington, February 22, 1822.

SIR: The President of the United States having received and accepted the resignation of General Jackson as Governor of the Floridas, I am instructed to inform you of his direction that you should continue to exercise all the authorities vested in you by General Jackson during his absence from the province, until further provision for the government of the same shall be made by Congress, or until you shall receive further orders from the President.

I have received from General Jackson a letter, enclosing an extract of yours to him of the 7th of January last, relating to the case of the two Spanish officers, Marcos de Villiers and Arnaldo Guillemard, under arrest at their houses for returning to Pensacola in disobedience to the proclamation of General Jackson.

As it appears by their memorial that they returned for the settlement of their private affairs and the care of their families, and that they pledge themselves to pay due respect to the laws and to the constituted authorities of the Territory, the President directs me to instruct you to discharge them from arrest, and permit them to remain there.

I have the honor to be, with great respect, sir
your very humble and obedient servant,
JOHN QUINCY ADAMS.

GEORGE WALTON, Esq.,

Secretary, &c., of West Florida.

The Secretary of State to Don Joaquin de Anduaga.

DEPARTMENT OF STATE,

Washington, April 15, 1822.

SIR: In the letters which I had the honor of writing you on the 2d of November and 31st of December last, you were informed that a definitive answer to the complaints against certain proceedings of General Andrew Jackson, while Governor of Florida, which were contained in a letter to this Department from Don Hilario de Rivas y Salmon, before your arrival in this country, and in your letters of the 18th and 22d of November, would be given after the substance of those complaints should have been made known to General Jackson, and his explanations of the motives and considerations by which he had been governed, in adopting the measures complained of, should have been received.

In performing this promise, I am commanded by the President of the United States to repeat the assurance of his deep regret that the transactions which formed the subject of these complaints should ever have occurred, and his full conviction, upon a review of all the circumstances which have attended them, that they are attributable entirely to the conduct of the Governor and Captain General of Cuba, and of the subordinate officers of Spain, in evading and refusing the fulfilment of the most express and positive stipulations of the treaty, both of evacuating the province within six months from the exchange of the ratifications of the treaty, and of delivering the archives and documents relating directly to the property and sovereignty of the provinces.

At the time of the exchange of the ratifications of the treaty, your predecessor, General Vives, delivered an order from His Catholic Majesty to the Captain General and Governor of the island of Cuba and of the Floridas, informing him of the cession to the United States of that part of the provinces of which he was the Governor, that was situated on this continent, and instructing him as follows:

"I command you, and ordain, that after the information which shall be seasonably given to you by my Minister Plenipotentiary and Envoy Extraordinary at Washington of the ratifications having been exchanged, you proceed, on your part, to make the proper dispositions, in order that, at the end of six months, counting from the date of the exchange of the ratifications, or sooner if possible, the Spanish officers and troops may evacuate the territories of both Floridas, and that possession of them be given to the officers or commissioners of the United States duly authorized to receive them. You shall arrange in proper time the delivery of the islands adjacent and dependent upon the two Floridas, and the public lots and squares, vacant lands, public edifices, fortifications, barracks, and

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other buildings, which are not private property; as also the archives and documents which relate directly to the property and sovereignty of the same two provinces, by placing them at the disposal of the commissaries or officers of the United States duly authorized to receive them."

This order, thus clear and explicit, was despatched, together with letters from General Vives, to the Governor of Cuba and the Floridas, notifying him of the exchange of the ratifications of the treaty, by Colonel James G. Forbes, who was commissioned "as agent and commissary of the United States, to deliver to him the royal order, to arrange and concert with him, conformably to instructions committed therewith, the execution of the above stipulations, and to receive from the said Governor, and from any and every person possessed of the said archives and documents, all and every one of the same, and to dispose thereof in the manner prescribed by his instructions." Colonel Forbes's authority, thus, was to receive the documents and archives, and to concert and arrange with the Governor of the Floridas the delivery of those provinces, which General Jackson was commissioned to receive, take possession of, and occupy, and of which he was further commissioned to be the Governor when surrendered to the United States.

The royal order was delivered by Colonel Forbes to the Governor of the Floridas, at the Havana, on the 23d of April, 1821. There has been shown by that Governor no cause or reason which could justly have required him to delay the delivery of the documents and archives, and the arrangements for the delivery of the provinces, beyond the term of a single week. There were twenty boxes of those archives and documents—the whole, or with very few exceptions—the whole of which ought, by the positive stipulations of the treaty, and by the express order of the King of Spain, to have been immediately delivered to Colonel Forbes. Not one of them was delivered to him, nor has one of them been delivered to this day.

The orders for the surrender of the provinces were delayed from day to day, notwithstanding the urgent and continual solicitations of Colonel Forbes, for the term of six weeks; at the end of which, to avoid further indefinite procrastination, he was compelled to depart without receiving the archives and documents, but with repeated promises of the Governor that they should be transmitted to this Government—promises which have remained to this day unperformed.

The orders for the delivery of the provinces themselves were not only thus unreasonably withheld, but, when made out, though not furnished to Colonel Forbes until the last week in May, were made to bear date on the 5th of that month. Nor were they prepared conformably to the stipulation of the treaty, or to the royal order of His Catholic Majesty; for, instead of directing the surrender to be made to the commissioners or officers of the United States duly authorized to receive them, the instruction to the commanders in East and West Florida was to deliver those respective provinces to Colonel Forbes himself, who had from

the United States no authority to receive them. And although expressly advised of this fact by Colonel Forbes, with the request that the orders of delivery might be amended, and made conformable to the treaty and to the royal command, Governor Mahy did not so amend it, but reduced Colonel Forbes to the alternative of submitting to further delays, or of departing with an imperfect and ambiguous order of delivery of West Florida, authorizing its surrender to the legally constituted authorities of the United States (that is, as Governor Mahy well knew, to General Andrew Jackson) only in case of any accident happening to Colonel Forbes, whom he still affected to consider, notwithstanding his own express declaration to the contrary, as the commissioned agent of the United States to that effect.

The twenty boxes of documents and archives, which were at the Havana, as has been mentioned, had been transmitted thither from Pensacola, and contained all the most important records of property in West Florida. The possession of them was in the highest degree important to the United States, not only as the vouchers of individual property, but as protecting guards against the imposture of fraudulent grants.

The same persevering system of withholding documents which it was their duty to deliver has marked, I am deeply concerned to say, the conduct of both the commanders of East and West Florida, who were charged, respectively, to deliver those provinces to the United States. It is to this cause, and to this alone, as appears from a review of all the transactions of which you have complained, that must be traced the origin of all those severe measures which General Jackson himself was the first, while deeming them indispensable to the discharge of his own official duties, to lament. Charged as he was with the trust of receiving the provinces in behalf of the United States, of maintaining their rights of property within them, of guarding them to the utmost of his power from those frauds to which there was too much reason to apprehend they would be liable, and to which the retention of the documents gave so great and dangerous scope—intrusted, from the necessity of the case, during the interval of time while the general laws of the United States remained unextended to the provinces, with the various powers which had until that time been exercised by the Spanish Governors, and which included the administration of justice between individuals—it was impossible that he should not feel the necessity of exercising, under circumstances thus exasperating and untoward, every authority committed to him by the supreme authority of his country, to preserve inviolate, so far as on him depended, the interests of that country, and the sacred obligations of individual right.

In the proceedings connected with the delivery of the province, he had as little reason to be satisfied with the conduct of Colonel Callava as with that of the Captain General. On a plea of indisposition, that officer had, on the day of the surrender, evaded the performance of a solemn

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promise, which General Jackson had considered an indispensable preliminary to the act; and afterwards the Colonel positively declined its fulfilment. He had, however, completed the surrender of the province with which he had been charged. He had declined producing to General Jackson any credential as a commissioner for performing that act, but had informed him that he should make the surrender as the commanding officer of the province, by virtue of orders from his superior. This service had been consummated; and Colonel Callava, whom General Jackson had formerly notified that he had closed with him his official correspondence forever, was bound, by the special stipulation of the treaty, to have evacuated, as one of the Spanish officers, the province before the 22d of August. If General Jackson had, in courtesy to Colonel Callava, considered him, notwithstanding his own disclaimer of the character, as a commissioner for the delivery of the province, there can be no pretence that he was entitled to special privileges under it, after he had avowedly performed all its duties; after he had been informed by General Jackson that their official correspondence was finally closed; and after the date when, by the positive engagements of the treaty which he was to execute, he was bound to have departed from the province. From the time when his functions for the surrender of the province were discharged, he could remain in Pensacola no otherwise than as a private unprivileged individual, amenable to the duly constituted American authorities of the place, and subject to the same control of General Jackson as a private citizen of the United States would have been that of the Governor of the Floridas before the surrender had taken place.

That this was the opinion of Colonel Callava himself, and of his friends who applied to Judge Fromentin for the writ of habeas corpus to rescue him from the arrest under which he was placed by the order of General Jackson, is apparent from their conduct on that occasion. It is stated by Judge Fromentin that, before granting the supposed writ of habeas corpus, he required that Colonel Callava should enter into a recognizance for twenty thousand dollars, with two securities, each for the amount of ten thousand dollars: the condition of which recognizance was, that Colonel Callava should personally be and appear before the Judge of the United States for West Florida, &c., whenever required so to do; that he should not depart from the city of Pensacola without the leave of the said court, nor send away, remove, or otherwise dispose of, unknown to the said court, any of the papers in question. It was only upon the promise of his friends that this recognizance should be executed, that Judge Fromentin consented to issue the writ of habeas corpus; and this recognizance renounces, in fact, every pretension of exemption from the judicial authority of the country, and, consequently, of the diplomatic privileges of a commissioner.

It has been seen that the most important documents relating to the property of West Florida had been transmitted to the Havana; there re-

mained, however, a portion of them, particularly of judicial records, relating to the titles of individual property. Some of these Colonel Callava did deliver up with the province; others, of the same description and character, indispensable for the administration of justice in the province, and useless at the Havana, whither it was his intention to have transported them, were retained—not in his possession, but in that of Don Domingo Sousa, a Spanish officer, who, by the stipulation of the treaty, ought also to have departed from the province before the 22d of August.

The day immediately preceding that date, the *alcalde* of Pensacola, at the suit of a woman in an humble walk indeed of life, but whose rights were, in the eye of General Jackson, equally entitled to his protection with those of the highest rank or the most commanding opulence, had represented to him that a number of documents belonging to the *alcalde's* office, and relating to estates at that place, and to suits there instituted, were in the possession of Domingo Sousa; that the necessity for obtaining possession of those documents was urgent, and, therefore, he requested the Governor to authorize some one to make a regular demand for them, and to ascertain what they were, Governor Jackson, accordingly, forthwith commissioned the Secretary of the Territory, the *alcalde* of Pensacola himself, and the clerk of the county court of Escambia, to proceed to the dwelling of Sousa to make demand of all such papers or documents belonging to the *alcalde's* office as might be in his possession; and, in case of Sousa's refusal to exhibit or deliver the same, immediately to report the fact to him (the Governor) in writing. These commissioners the next day reported to the Governor that they had examined the papers in the possession of Sousa; that they had found among them four sets of papers of the kind which belonged to the office of the *alcalde*, and among them those in which the woman from whom the first application had proceeded was interested; that they had, both verbally and in writing, demanded of him the delivery of those documents, which no private individual had a right to keep, as they related to the rights of persons holding or claiming property in the province, but that Sousa had refused to deliver them, alleging that he was but the servant of Colonel Callava, and could not deliver them without his order. In the transactions of Sousa, on this occasion, is manifested the same consciousness that the claim of diplomatic privilege, set up by Colonel Callava to screen him from the operation of the authority of Governor Jackson, was without foundation; for, although he refused to deliver up the papers conformably to the Governor's command, he submitted to the examination of them by the commissioners, in obedience to the same authority; and, though he declined receiving from them the letter demanding the delivery of the papers, he told them that, to relieve himself from the responsibility of keeping them, he should deliver them to Governor Callava himself. They were accordingly sent to the house of Colonel Callava, and put into the possession of his steward, Fullarat.

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It is clear, however, that, if the papers while in Sousa's possession were privileged from being delivered up at the command of Governor Jackson, they were equally privileged from examination by the same authority; and, if they were not lawfully screened from his process in the custody of Sousa, they could not be made so by removing them to the house of Colonel Callava. The truth is, that the removal of the documents at that time, and in such a manner, was a high and aggravated contempt of the lawful authority of the Governor. It not only claimed for Colonel Callava diplomatic immunities, but assumed that he was still the Governor of the province, and that Sousa was amenable for his conduct only to him. Colonel Callava might, on the same pretence, have retained the whole body of the Spanish officers and troops under his command at Pensacola, and insisted upon exercising over them all his extinguished authority as Governor and Commander-in-chief after the 21st of August, as he could to exercise any official authority within the province over Domingo Sousa, or to extricate him from the lawful jurisdiction of Governor Jackson.

It is under these circumstances that the subsequent measures of Governor Jackson are to be considered. He immediately issued an authority to Colonel Robert Butler and Colonel John Miller to seize the body of Sousa, together with the papers, and to bring them before him, that Sousa might answer such interrogatories as might be put to him, and comply with such order and decree touching the said documents and records as the rights of the individuals, secured to them by the treaty, might require, and the justice of the case might demand. By virtue of this order, Sousa was brought before Governor Jackson, and again recognised the authority under which he was taken, by answering the interrogatories put to him. But he had already put the papers and documents out of his possession; and thus, as far as was in his power, baffled the ends of justice, and set at defiance the lawful authority of the Governor.

In this transaction, Colonel Callava was avowedly the principal agent; and, altogether unjustifiable as it was, whatever consequences of inconvenience to himself resulted from it, must be imputed to him. It was an undisguised effort to prostrate the authority of the United States in the province; nor had Governor Jackson any other alternative to choose than tamely to see the sovereign power of his country, intrusted to him, trampled under foot, and exposed to derision by a foreigner, remaining there only upon his sufferance; or, by the vigorous exercise of his authority, to vindicate at once the rights of the United States, and the just claims of individuals to their protection.

Governor Jackson could consider Colonel Callava in no other light than that of a private individual, entitled, indeed, as the officer of a foreign Power, to courtesy, but not to exemption from the process of the law. Notwithstanding his improper conduct, Governor Jackson, in the first instance,

authorized Colonel Butler and Dr. Bronaugh, accompanied by Mr. Brackenridge, the alcalde, to wait upon him and his steward, and demand from them the specified papers, which Sousa had declared, in his answer to the interrogatories, to have been delivered to the steward at Governor Callava's house. It was only in case of the refusal to give up the papers that the order extended to the seizure of the person of Colonel Callava, that he might be made to appear before Governor Jackson, to answer interrogatories, and to abide by and perform such order and decree as the justice of the case might demand. This demand was accordingly made; and although at the first moment peremptorily refused, yet, upon Colonel Callava's being informed that his refusal would be considered as setting at defiance the authority of the Governor of the Floridas, and of the consequences to himself which must ensue upon his persisting therein, he desired to be furnished with a memorandum, setting forth the documents required; which was accordingly done. But when the delivery of the papers was again demanded of him, he repeated the refusal to deliver them, and attempted both to avoid the personal approach of Colonel Butler and Dr. Bronaugh, and to exhibit a resistance by force of arms to the execution of the Governor's order. And it is not a little remarkable that, among the persons who appeared thus arrayed against the authority of the United States, to accomplish the denial and removal of the papers, was a man against whom the most important of those papers were judicial decisions of Governor Callava himself, in behalf of the orphan children, for the establishment of whose rights they were indispensably necessary, and at whose application they had been required.

Standing thus, in open defiance to the operation of the law, Colonel Callava was taken before the Governor; and there refusing to answer the interrogatories put to him, and asserting the groundless pretension of answering only as a commissioner, and by a protest against the acts of the Governor, he was, by his order, committed to prison until the documents should be delivered to the alcalde. On the next day, a search warrant for the papers was issued by the Governor, upon which they were actually obtained, and directed to be delivered to the alcalde; whereupon, Colonel Callava was immediately released.

In all these proceedings you will perceive, sir, that not one act of rigor, or even of discourtesy towards Colonel Callava, was authorized by Governor Jackson, which was not indispensably necessitated for the maintenance of his authority, and the discharge of his official duty, by the unjustifiable and obstinate resistance of Colonel Callava himself.

On a review of the whole transactions, I am instructed by the President of the United States to say that he considers the documents in question as among those which, by the stipulation of the treaty, ought to have been delivered up, with the province, to the authorities of the United States; that they were, on the 22d of August, when in the possession of Domingo Sousa, within the ju-

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jurisdiction of the United States, and subject to the control of their Governor, acting in his judicial capacity, and liable to be compulsively produced by his order; that the removal of them from the possession of Sousa, after the Governor's order to him to deliver them had been served upon him, could not withdraw them from the jurisdiction of Governor Jackson, and was a high and aggravated outrage upon his lawful authority; that the imprisonment of Colonel Callava was a necessary (though by the President deeply regretted) consequence of his obstinate perseverance in refusing to deliver the papers, and of his unfounded claim of diplomatic immunities, and irregular exercise even of the authorities of a Governor of Florida, after the authority of Spain in the province had been publicly and solemnly surrendered to the United States.

That the documents were of the description of those which the treaty had stipulated should be delivered up with the province, is obvious from the consideration of their character. They related to the property of lands in the province. They were judicial records, directly affecting the rights of persons remaining in the province—rights which could not be secured without them—rights over which the appellate tribunal of the Governor of Cuba, to which Colonel Callava proposed to remove the papers, henceforth could have no authority or control, they having become definitively subject to the jurisdiction of the United States. The only reason assigned by Colonel Callava for the pretension to retain them is, that they related to the estate of a deceased Spanish officer, and had thereby been of the resort of the military tribunal. But it was for the rights of the living, and not for the privileges of the dead, that the documents were to operate. The tribunal of the Captain General of Cuba could neither need the production of the papers, nor exercise any authority over the subject-matter to which they related. To have transferred to the island of Cuba a question of litigated property, concerning land in Florida, between persons all of whom were living, and to remain in Florida, would have been worse than a mockery of justice. Indeed, Mr. Salmon, in his note, appears to have been aware of the weakness of this allegation; declines the discussion of the question; and, in justification of the refusal of Colonel Callava to deliver up the documents, merely rests its defence upon the plea that the papers had not been demanded of him officially. It has been seen that Colonel Callava had no official character which could then exempt him from the compulsive process of the Governor. But Mr. Salmon alleges that the Spanish constitution, as well as that of the United States, separates the judicial from the Executive power exercised by the Governor or Captain General of a province.

Neither the Constitution, nor the laws of the United States, excepting those relating to the revenue and its collection, and to the slave trade, had at that time been extended to Florida; and as little had the Spanish constitution been introduced there, in point of fact, however it might

have been proclaimed. But, be this as it may, the case, in relation to which the documents required in the case of Vidal had been drawn up, and were needed, was one of those which, under the Spanish constitution itself, remained within the jurisdiction of the Governor. This is declared by Colonel Callava himself on the third observation of the appendix to his protest, transmitted with the letter of Mr. Salmon. It is the reason assigned by him for having withheld those documents from the *alcalde*. And one of them was a judgment rendered by Colonel Callava himself, after the time when the proclamation of the Spanish constitution in the province is alleged to have been made. The cause, therefore, was, on every hypothesis, within the jurisdiction of the Governor; the papers were indispensable for the administration of justice in the cause; and when once applied for by a person entitled to the benefit of them, it was the duty, the inexorable duty, of Governor Jackson to put forth all the authority vested in him necessary to obtain them.

Nor less imperative was his obligation to punish, without respect of persons, that contempt of his jurisdiction which was manifested in the double attempt of Colonel Callava to defy his power and to evade the operation of its process.

With regard to the proclamation of General Jackson of the 29th of September, commanding several Spanish officers, who, in violation of the stipulation in the treaty, had remained at Pensacola after the expiration of the six months from the day of the ratification of the treaty, to withdraw within four days from the Floridas, which forms the subject of complaint in your letter of the 18th of November, it might be sufficient to say that it did no more than enjoin upon those officers to do that which they ought before, and without any injunction, to have done. The engagement of the treaty was, that they should all have evacuated the province before the 22d of August.

If they remain there after that time, it could only be as private individuals, amenable in every particular to the laws. Even this was merely an indulgence which it was within the competency of General Jackson at any time to have withdrawn. From the extract of a letter from him, of which I have the honor of enclosing a copy, it will be seen that he was far from being disposed to withdraw it, had they not, by their abuse of it, and by open outrages upon his authority, forfeited all claims to its continuance.

This extract furnishes a satisfactory answer to your question why, if the fulfilment of the article was the object of the proclamation, it was confined to the eight officers by name, and not extended to all other Spanish officers in the Floridas? It was because the deportment of the others was as became them—decent, respectful, and friendly towards the Government under the protection of which they were permitted to abide. In the newspaper publication which gave rise to the proclamation of General Jackson, the Spanish officers avowedly acted, not as private individuals, but as a distinct body of men, speaking of Colonel Callava as *their chief, their superior*, and arrogating

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to themselves, as a sort of merit, the condescension of knowing what was due to a Government (meaning the American Government) which was on the most friendly footing with their own. This is language which would scarcely be proper for the ambassador of one nation upon the territory of another, to which he would owe not even a temporary allegiance. From persons situated as those Spanish officers were, it was language of insubordination and contempt.

In alluding to the fact that officers of the American squadron in the Mediterranean are sometimes received with friendly treatment on the territories of Spain, to make a case parallel with the present, it would be necessary to show that some superior officer of the said squadron should, while enjoying the hospitality of the Spanish nation upon their shores, first attempt to evade and to resist the operation of process from the constituted judicial tribunals of the country, and then pretend, as an American officer, to be wholly independent of them; and that some of his subalterns should not only countenance and support him in these attempts, but should affect to consider him, while on Spanish ground, as their only superior and chief, and, by unfounded and inflammatory publications in the daily journals, to rouse the people of Spain to revolt and insurrection against the judicial tribunal of their own country.

If the bare statement of such a case would be sufficient to raise the indignation of every honorable Spaniard, let it be observed that even this would be without some of the aggravations of the conduct of these Spanish officers at Pensacola; for such outrage would be far less dangerous committed against old established authorities, which might rely upon the support of the whole people surrounding them, than in the presence of a people whose allegiance had been but just transferred to a new Government, and when the revolt to which they were stimulated would seem little more than obedience to the authorities to which they had always been accustomed to submit.

The very power which the Spanish Governor and officers had exercised before the surrender of the province ought to have been a most urgent warning to them to avoid every semblance of authority in themselves, or of resistance to that of the United States, after the transfer of the province had been completed.

In forbearing particularly to reply to that part of your note in which you think yourself authorized to pronounce the charge of General Jackson against these Spanish officers, of having attempted to excite discontent in the inhabitants, *false*, I shall barely express the hope that the term was admitted into your communication inadvertently. The conduct of the officers at the time of Colonel Callava's conflict with the authority of the Governors, as well as in their insulting newspaper publication, was of a character and tendency too strongly marked to leave a doubt of the truth with which it is described in General Jackson's proclamation; and in passing unnoticed this and other mere invectives against an officer whose services to this nation have entitled him to their highest

regard, and whose whole career has been signalized by the purest intentions and the most elevated purposes, I wish to be understood as abstaining from observations which, however justified by the occasion, could but add to the unpleasantness of a discussion already sufficiently painful.

That this conduct on the part of the Spanish officers was highly reprehensible, cannot reasonably be denied; and had General Jackson been disposed to animadvert upon it with severity, his course would undoubtedly have been that which you have pointed out as appropriate to the offence. They would have been cited before the proper tribunal, heard upon specific charges, allowed time and liberty to make their defence, and punished by commitment to prison. General Jackson preferred a milder and more indulgent measure; and, without prosecuting them as criminals, only withdrew from them the privilege of a protracted infraction of the treaty, by requiring them forthwith to depart from the province. To justify him in this requisition, neither arrest nor judicial trial was necessary or proper. The facts were of public notoriety, and could not be denied. The proclamation only required of them the execution of the treaty by the removal of their persons. Had their conduct even been unexceptionable, this measure would have been within the undoubted authority of General Jackson. As their deportment had been, it was the most lenient exercise of his power practicable to vindicate the insulted honor and justice of his country.

I pass to the consideration of the complaints contained in your letter of the 22d of November. In order to take a correct view of this subject, it is again necessary to advert to the royal order of His Catholic Majesty to the Captain General and Governor of the island of Cuba and of the Floridas, commanding him to cause to be placed at the disposal of the commissaries or officers of the United States duly authorized to receive them the archives and documents relating directly to the property and sovereignty of the two provinces.

On the 16th of May, the Captain General and Governor wrote to Colonel Forbes that, "respecting East Florida, where there ought to be found all her archives, he (Governor Mahy) would direct Governor Coppinger to make a formal delivery of that province, as well as of the documents belonging to it."

On the 24th of May, Colonel Forbes wrote to the Captain General, reminding him of the repeated promises made by his Excellency to despatch him with the archives which were to be delivered, and then were at the Havana, and with the orders for the delivery of the provinces and of the archives deliverable there; of the continual disappointments to which he had been subjected by the failure of the performance of those promises, and of the necessities which urged his immediate departure. He therefore proposed "that, if any further researches should be necessary for the discovery of the said archives, they might be delivered, when more convenient, to the Spanish Government; that he (Colonel Forbes) should be allowed to proceed immediately to West Florida with the

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commissary appointed to carry the final order to the sub-governor there; and, lastly, that a duplicate order be given at once, as agreed upon, to the Governor of East Florida, for the delivery of that province to the constituted authorities of the United States, together with the archives which were declared to be on the spot."

On the 29th of May, the Captain General answered this letter, and enclosed to him the orders to the several Governors of East and West Florida for the delivery of the provinces, (antedated, as I have already mentioned,) with a declaration that the archives then at the Havana, and which ought to have been delivered to Colonel Forbes, should be transmitted to the Government of the United States as soon as they were selected—a promise, as I have before observed, yet unfulfilled.

These orders of the Captain General to the commanders of East and West Florida are further remarkable by the omission of any direction in them for the delivery of the archives and documents. It had been expressly agreed by him with Colonel Forbes that the order for the delivery of East Florida should include that of the archives; but it was not sufficient for Governor Mahy to avoid the performance of this promise.

By the letter from Colonel Butler to General Jackson, of the 21st of January last, a copy of which I have the honor to enclose, it appears that, with regard to the greatest and most important part of those documents, he had expressly instructed Colonel Coppinger not to deliver them; and hence, when, on the 18th of June, Colonel Butler, the officer of the United States authorized to receive the province, notified Colonel Coppinger that he had designated Major Cross to receive the archives relating to the sovereignty and individual property of the province, he was answered by Colonel Coppinger: "As respects the delivery of the public archives containing the records of individual property of this province, that will be delayed until various doubts that occur are cleared up; but they will not be removed until then; nor will I leave this place until all matters are regulated and concluded between us that demand my personal assistance."

Thus, upon the pretence of doubts, the nature of which was not explained, Colonel Coppinger declined, positively, to deliver up documents conformably to the express stipulation of the treaty. Colonel Butler immediately proposed to him a conference on the subject, which was held on the 21st of June. At that conference Colonel Coppinger told Colonel Butler that, "as an individual, he believed these archives should be given over to the United States, but that his orders prevented him from turning them over." Colonel Butler therefore assented (as, indeed, no other alternative seemed to be left him) that Colonel Coppinger should have time to write to the Captain General of Cuba for the decision of his doubts; and mentioned to him the opportunity of a vessel then about to sail for the Havana, whence she was to return to St. Augustine, and might bring the answer of the Captain General. Colonel Coppin-

ger, on the 23d of June, informed Colonel Butler that he had that day written to the Captain General for the solution of his doubts, and, until he received his answer, the archives should not be removed from St. Augustine, and should remain precisely as they were. Colonel Butler, by his letter of 26th June, agreed to remain silent on the head of the archives until the answer should be received from the Captain General; but within one week from that time Colonel Butler received information that a large portion of these documents were packed for transportation. He wrote therefore, on the 3d of July, to Colonel Coppinger, enumerating specifically several kinds of records relating directly to the property of the province, and declaring that he considered them among those which were not to be removed: the reply to which, by Colonel Coppinger, is especially to be remarked, as expressing his opinion that several of those documents were excluded from delivery. There can be no reasonable doubt that all the papers specified by Colonel Butler's letter were of those which the treaty had stipulated should be delivered up. When, therefore, General Jackson considered and compared together the express and positive order of the King of Spain to the Captain General and Governor of Cuba that he should faithfully see to the delivery of the documents; the pretences on which he evaded the delivery to Colonel Forbes of those which were at the Havana, within his own control; the promise that he would direct the delivery by Colonel Coppinger of those that were at St. Augustine; the peremptory postponement of Colonel Coppinger to deliver up any documents or records relating to individual property; his engagement that none of them should be removed until he should receive further instructions from the Captain General, and, within one week after, his attempt to pack up for transportation to Cuba a large portion of them; and, finally, his pretensions that many papers, manifestly having direct relation to the property of the province, were excluded from delivery, and his recurrence to the literal sense of his orders from the Captain General, with the verbal avowal to Colonel Butler of his own opinion that the documents ought to be delivered, though he was forbidden by his instructions to deliver them; it was impossible for General Jackson to close his eyes against proceedings so unjustifiable and improper. He, therefore, gave instructions to the officer commanding at St. Augustine to take possession of the papers which the treaty had stipulated should be delivered.

The necessity for taking possession of them had, indeed, arisen before the instructions of General Jackson were received. Most of the records relating to individual property had been left in possession of Don Juan de Entralgo, who, on the pretence that he had purchased at public sales, under the Spanish Government, not only those documents, but the office of register of them, openly advanced the claim of retaining the records as his private property, and of continuing the exercise of the office, and receiving fees for granting copies of the same.

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These pretensions were raised on the 5th of September, nearly three months after the doubts of Colonel Coppinger had, with the consent of Colonel Butler, been referred to the Captain General and Governor of Cuba. Long before that time the answer of that officer ought to have been received, peremptorily commanding the delivery of the papers.

It was impossible that the United States should acquiesce in the claims of Mr. Entralgo. They were unquestionably entitled to the documents; and whatever injury he might sustain by the delivery of them, it might give him a fair demand of indemnity from his own Government, but certainly not from the United States.

Yet the Secretary and Acting Governor, Mr. Worthington, allowed a further delay of nearly a month before taking the decisive measure necessary to obtain the documents. He then, on the 3d of October, authorized three persons of respectable character to obtain them, with the use of force if necessary, but with all suitable delicacy and respect towards the persons who had been the officers of Spain in the province. I have the honor of enclosing, herewith, copies of the orders from the Secretary (Worthington) to the commissioners appointed by him to receive, and afterwards to examine and assort the papers, and of their reports to him, exhibiting the manner in which both those services were performed. They will prove that every regard was shown towards Colonel Coppinger and Mr. Entralgo compatible with the execution of the duty; and, after the assortment of the papers, all those which were not of the description stipulated to be delivered over by the treaty have ever been, and yet are, ready to be returned to Colonel Coppinger, or to any person duly authorized to receive them.

Such is the view which I am instructed to say has definitively been taken by the President of the United States in relation to the transactions which formed the subjects of your letters of the 18th and 22d of November last, and of that of Mr. Salmon of the 6th of October. He is satisfied that, by the proceedings of the Governor of Florida towards Colonel Callava on the 23d of August last, and towards certain individuals presuming to act as a body of Spanish officers in Florida, in contempt of the authority of the United State, on the 29th of September, and by those of the Secretary of East Florida, acting as Governor on the 2d and 3d of October, towards Colonel Coppinger and Don Juan de Entralgo, no intention of injury or insult to His Catholic Majesty or his Government was entertained, and that no just cause of complaint by them was given. That those measures were all rendered necessary by the total disregard of the Captain General and Governor of Cuba and the Floridas, and of his subordinate officers in the Floridas, not only of the solemn stipulation in the treaty for the delivery of the archives and documents directly relating to the property of those provinces, but of the royal order of their sovereign commanding the said Captain General to see to the faithful execution of that engagement—an engagement, in the fulfilment of which

the rights not only of the United States, but of every individual inhabitant of the provinces and proprietor in them, were deeply and vitally interested.

The mere enumeration of the documents, as specified in the demands of them made by the officers of the United States, before resort was had to any measure of rigor for extorting them, proves that they were indispensable for the establishment of public right, or for the security of private property. To Spain, not one of these documents could, after the transfer of the provinces, be of the slightest interest or utility. To the United States they were all-important. If the Governor and Secretary had so little understood their duty to the public rights of their country committed to their charge as to have suffered the removal of records essential to guard the interests of the nation against the insatiate greediness and fraudulent devices of land speculators, they had yet a sacred duty to perform to the people of the country, by retaining the common vouchers of their estates. What individual would have been secure in the tenure of his land, in the evidences of his debts, or in the very shelter over his head, if Colonel Callava could have carried to Cuba his own judgments in favor of the Vidals, because their father, when alive, had been an Auditor of War? and if Don Juan de Entralgo could have transported to the same island all the title-deeds of East Florida, because he had bought his office of recorder at public auction?

The delays of the Captain General of Cuba, with regard to the fulfilment of the royal order transmitted to him by Colonel Forbes, were so extraordinary, and, upon any just principle, so unaccountable that the Minister of the United States in Spain was, by letters from this department of the 13th and 16th June last, instructed, upon his return to Madrid, to represent the same to your Government; and to request new and peremptory orders to that officer for the delivery of the archives in his possession, conformably to the stipulation of the treaty. The renewal of the order was declined, upon the ground of entire confidence on the part of your Government that the Captain General would, before it could be received, have completed the delivery of the archives and documents, as he had been commanded by the King.

I regret to be obliged to state that this just expectation of His Catholic Majesty has not yet been fulfilled.

Captain James Biddle, commander of the United States frigate *Macedonian*, has therefore been commissioned to repair to the Havana, there to receive the documents and archives which Colonel Forbes was obliged to leave, and which it is hoped the Captain General and Governor of Cuba will cause to be delivered without further delay.

I pray you, sir, to receive the assurance of my distinguished consideration.

JOHN Q. ADAMS.

DON J. DE ANDUAGA,
Envoy Extraordinary, &c.

*Great Britain—Treaty of Peace.**Don Joaquín de Anduaga to the Secretary of State.*

PHILADELPHIA, April 24, 1822.

SIR: As soon as the news was received in Madrid of the recent occurrences in New Spain, after the arrival at Vera Cruz of the Captain General and supreme political chief appointed for those provinces, Don Juan O'Donoju, and some papers were seen relative to those same transactions, it was feared that, for forming the treaty concluded in Cordova, on the 24th of August last, between the said General and the traitor Colonel Don Augustin Iturbide, it had been falsely supposed that the former had power from His Catholic Majesty for that act; and in a little time the correctness of those suspicions was found, as, among other things, the said O'Donoju, when, on the 26th of the same August, he sent this treaty to the Governor of Vera Cruz, notifying him of its prompt and punctual observance, told him that, at his sailing from the Peninsula, preparation for the independence of Mexico was already thought of, and that its bases were approved of by the Government, and by a commission of the Cortes. His Majesty, on sight of this, and of the fatal impression which so great an imposture had produced in some ultra-marine provinces, and what must, without difficulty, be the consequence among the rest, thought proper to order that, by means of a circular to all the chiefs and the corporations beyond seas, this atrocious falsehood should be disbelieved; and now he has deigned to command me to make known to the Government of the United States that it is false, as far as General O'Donoju published beyond his instructions, by pointing out to it that he never could have been furnished with other instructions than those conformable to the constitutional principles.

In compliance with this order of His Majesty, I can do no less than observe to you, sir, how unfounded one of the reasons is in your note of the 6th instant for the recognition by this Government of those of the insurgent provinces of Spanish America—that it was founded on the treaty made by O'Donoju with Iturbide; since, not having had that power or instruction to conclude it, it is clearly null and of no value.

I repeat to you, sir, &c.

Don Joaquín de Anduaga to the Secretary of State.

PHILADELPHIA, April 26, 1822.

SIR: I have received your note of the 15th instant, in which you are pleased to communicate to me the reasons which induce the President not only to refuse to His Catholic Majesty the satisfaction which I demanded, in his royal name, for the insults offered by General Jackson to the Spanish commissaries and officers, but to approve fully of the said chief's conduct.

Before answering the contents of the said note, I thought it my duty to request instructions from my Government; and, therefore, without delay, I have laid it before them. Until they arrive, therefore, I have confined myself to two observations: 1st. If, in my note of November last, I said that, as General Jackson had not specified the actions

which had induced him to declare the Spanish officers expelled from the Floridas criminal, or given proof of them, I thought myself authorized to declare the accusation false, I did not this through inadvertency, but upon the evident principle that every person accused has a right to declare an accusation destitute of proof false, and much more an accusation not pretended to be proved. This assertion of mine does not presume that I am not persuaded of the merit of the said General, and of the claim which he has upon the gratitude of his country; but, although it is believed the duty of his country to eulogize and reward his eminent services, yet it will be lawful for the representative of a Power outraged by him to complain of his conduct. I cannot persuade myself that, to aggravate my said expression, you could have thought that I had been wanting in due respect; it not being possible for that opinion to have entered your mind, when, by his orders, Mr. Forsyth had sent to the Spanish Minister, on the 1st of September last, a note, in which, complaining of the Captain General of the Island of Cuba, he accuses him of *dishonorable pecuniary motives* in not having delivered the archives, without giving any proof of so injurious an assertion; and I must remark that the rank of General Mahy in Spain is at least as elevated as that of General Jackson in the United States, and that the services performed by him to his country have rendered him as worthy as he of its consideration and respect.

2d. Although you are pleased to tell me that part of the papers taken from Colonel Coppinger are ready to be delivered, which the American Commissioners, after having examined them, have adjudged to be returned to Spain, I do not think myself authorized to admit their return in this manner, but in the mode which I demanded in my note of the 22d of November last.

As I have seen by the public papers that the President has communicated to Congress the note which you were pleased to address to me, dated the 15th instant, and that it has been ordered to be printed, I take the liberty of requesting that you will have the goodness to use your influence that this my answer may be treated in the same manner, that Congress and the public may be informed that, if I have not answered the first part of it, as respects the general business, it is only to wait for the instructions of my Government; but that I have answered what was personal.

I renew to you, sir, &c.

GREAT BRITAIN—TREATY OF PEACE.

[Transmitted to the House, Feb. 21, 1822.]

To the House of Representatives of the United States:

I transmit to the House of Representatives a report from the Secretary of State, with the documents accompanying it, in pursuance of a resolution of the House of the 17th January last.

JAMES MONROE.

WASHINGTON, Feb. 21, 1822.

Great Britain—Treaty of Peace.

DEPARTMENT OF STATE,
Washington, Feb. 21, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 17th January, requesting the President of the United States to cause to be laid before the House all the correspondence which led to the Treaty of Ghent, together with the protocol, which has not been made public, and which, in his opinion, it may not be improper to disclose, has the honor to submit to the President the papers embraced by that resolution.

JOHN Q. ADAMS.

The PRESIDENT of the U. S.

[The documents communicated with the preceding Message are inserted in Appendix to volume third, (the third session) of the 13th Congress, with the exception of the following, which should follow page 1379:—]

Extract of a letter from Jonathan Russell, Esq., to the Secretary of State, dated

GHEENT, December 25, 1814.

My necessary occupation, at this moment, in aiding my colleagues to prepare our joint despatches, puts it out of my power to furnish you with any details or observations exclusively my own.

As, however, you will perceive, by our despatch to you of this date, that a majority only of the mission was in favor of offering to the British Plenipotentiaries an article confirming the British right to the navigation of the Mississippi, and ours to the liberty as to the fisheries, it becomes me, in candor, to acknowledge that I was in the minority on that question. I must reserve to myself the power of communicating to you, hereafter, the reasons, which influenced me to differ from a majority of my colleagues on that occasion; and if they be insufficient to support my opinion, I persuade myself they will, at least, vindicate my motives.

Mr. Gallatin to the Secretary of State.

GHEENT, December 25, 1814.

SIR: The treaty which we signed yesterday with the British Ministers is, in my opinion, as favorable as could be expected, under existing circumstances, so far as they were known to us. The attitude taken by the State of Massachusetts, and the appearances in some of the neighboring States, had a most unfavorable effect. Of the probable result of the Congress at Vienna we had no correct information. The views of all the European Powers were precisely known, from day to day, to the British Ministry. From neither of them did we, in any shape, receive any intimation of their intentions, of the general prospect of Europe, or of the interest they took in our contest with Great Britain. I have some reason to believe that all of them were desirous that it might continue. They did not intend to assist us; they appeared indifferent about our difficulties; but they rejoiced at any thing which might occupy,

and eventually weaken, our enemy. The manner in which the campaign has terminated; the evidence afforded, by its events, of our ability to resist, alone, the now very formidable military power of England; and our having been able, without any foreign assistance, and after she had made such an effort, to obtain peace on equal terms, will raise our character and consequence in Europe. This, joined with the naval victories, and the belief that we alone can fight the English on their element, will make us to be courted as much as we have been neglected by foreign Governments. As to the people of Europe, public opinion was already most decidedly in our favor. I anticipate a settlement with Spain on our own terms, and the immediate chastisement of the Algerines. Permit me to suggest the propriety of despatching a squadron for that purpose, without losing a single moment.

I have little to add to our public despatch on the subject of the terms of the treaty. I really think that there is nothing but nominal in the Indian article, as adopted. With respect to precedent, you will find two, though neither is altogether in point, viz: the — article of the Treaty of Utrecht, and the latter part of the — article of our treaty with Spain. You know that there was no alternative between breaking off the negotiations and accepting the article; and that we accepted it only as provisional, and subject to your approbation or rejection.

The exception of Moose island from the general restoration of territory is the only point on which it is possible that we might have obtained an alteration, if we had adhered to our opposition to it. The British Government had long fluctuated on the question of peace; a favorable account from Vienna, the report of some success in the Gulf of Mexico, or any other incident, might produce a change in their disposition; they had already, after the question had been referred to them, declared that they could not consent to a relinquishment of that point. We thought it too hazardous to risk the peace on the question of the temporary possession of that small island, since the question of title was fully reserved; and it was, therefore, no cession of territory.

On the subject of the fisheries within the jurisdiction of Great Britain, we have certainly done all that could be done. If, according to the construction of the treaty of 1783, which we assumed, the right was not abrogated by the war, it remains entire, since we most explicitly refused to renounce it, either directly or indirectly. In that case, it is only an unsettled subject of difference between the two countries. If the right must be considered as abrogated by the war, we cannot regain it without an equivalent. We had none to give but the recognition of their right to navigate the Mississippi, and we offered it. On this last supposition, this right is also lost to them; and, in a general point of view, we have certainly lost nothing. But we have done all that was practicable in support of the right to those fisheries; first, by the ground we assumed, respecting the construction of the treaty of 1783; secondly, by the offer to

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recognise the British right to the navigation of the Mississippi; thirdly, by refusing to accept from Great Britain both her implied renunciation of the right of that navigation and the convenient boundary of 49 degrees, for the whole extent of our and her territories west of the Lake of the Woods, rather than to make an implied renunciation, on our part, to the right of America to those particular fisheries.

I believe that Great Britain is very desirous of obtaining the northern part of Maine, say from about 47 degrees north latitude to the northern extremity of that district, as claimed by us. They hope that the river which empties into the Bay des Chaleurs, in the Gulf of St. Lawrence, has its source so far west as to intervene between the head-waters of the river St. John and those of the streams emptying into the river St. Lawrence; so that the line north from the source of the river St. Croix will first strike the heights of land which divide the waters emptying into the Atlantic ocean (river St. John) from those emptying into the Gulf of St. Lawrence, (river des Chaleurs,) and afterwards the heights of land which divide the waters emptying into the Gulf of St. Lawrence (river des Chaleurs) from those emptying into the river St. Lawrence; but that the said line never can, in the words of the treaty, strike any spot of land actually dividing the waters emptying into the Atlantic ocean from those which fall into the river St. Lawrence. Such will be the foundation of their disputing our claim to the northern part of that territory; but, feeling that it is not very solid, I am apt to think that they will be disposed to offer the whole of Passamaquoddy bay and the disputed fisheries as an equivalent for the portion of northern territory which they want, in order to connect New Brunswick and Quebec. This may account for their tenacity with respect to the temporary possession of Moose island, and for their refusing to accept the recognition of their right to the navigation of the Mississippi, provided they recognise ours to the fisheries.

That northern territory is of no importance to us, and belongs to the United States, and not to Massachusetts, which has not the shadow of a claim to any land north of 45 degrees to the eastward of the Penobscot river, as you may easily convince yourself of, by recurring to her charters.

I have the honor to be, with respect, &c.

POLITICAL CONDITION OF THE SPANISH PROVINCES OF SOUTH AMERICA.

[Documents accompanying the Message of the President, communicated to Congress, March 8, and April 26, 1822. The Message of March 8 will be found in the text, *ante* p. 1238.]

The Secretary of State to Mr. John M. Forbes.

DEPARTMENT OF STATE, July 5, 1820.

SIR: The certificate from this Department, which has been made out and transmitted to you, constitutes you agent for commerce and seamen for

either of the provinces of Buenos Ayres or of Chili, in whichever of them Mr. J. B. Prevost shall not be. He is at this time at Buenos Ayres; but having, at one period, intimated to the President a preference to return to Chili, where he some time resided, it is thought due to him to leave the selection of his residence, after your arrival at Buenos Ayres, to himself. Should he determine to continue there, you will proceed, either by land over the Andes, or in the frigate Constellation round Cape Horn, to Valparaiso, and take up your residence there, or at St. Jago de Chili, which is understood to be the seat of the revolutionary Government of that province. If he should prefer to return thither, you will remain at Buenos Ayres.

The commercial intercourse between the United States and those countries, though not very considerable, is deserving of particular attention. Whatever accurate information you can obtain relating to it, as well as to the commerce of those countries with other nations, and to their internal trade, will be particularly acceptable. The condition of our seamen there will also deserve your notice. The performance of these duties will involve also the political relations between those countries and the United States. In the progress of their revolution, Buenos Ayres and Chili have, to the extent of their powers, and, indeed, far beyond their natural means, combined maritime operations with those of their war by land. Having no ships or seamen of their own, they have countenanced and encouraged foreigners to enter their service, without always considering how far it might affect either the rights or the duties of the nations to which those foreigners belonged. The privateers which, with the commissions and under the flag of Buenos Ayres, have committed so many and such atrocious acts of piracy, were all either fitted out, manned, and officered by foreigners, at Buenos Ayres, or even in foreign countries, not excepting our own, to which blank commissions, both for the ships and officers, have been sent. In the instructions to the late Commodore Perry, (which his lamented decease prevented from being executed by him, and a copy of which is now furnished to you,) certain articles in the Buenos Ayrean privateering ordinance were pointed out, particularly liable to the production of these abuses, and which, being contrary to the established usages among civilized nations, it was hoped would have been revoked, or made to disappear from their otherwise unexceptionable code. These instructions were renewed to Commodore Morris; but the time of his stay at Buenos Ayres was so short, and he was there at a moment of so great a change in the ruling power of the State, that, although he communicated to the then existing Director the substance of the representations which Commodore Perry had been instructed to make, we know not that it was attended with any favorable result. You will consider the parts of Commodore Perry's instructions which may be still applicable on your arrival in South America as directed to yourself, and, should you proceed to Chili, will execute them there, no communication

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upon the subject having yet been made there. Among the inconveniences consequent upon this system of carrying on maritime warfare by means of foreigners, has been occasionally, and to a considerable extent, the enticement of seamen belonging to merchant vessels in the ports of Buenos Ayres and Chili from their engagements, to enlist them in privateers or public armed vessels of those countries. In attending to the numerous trials and convictions for piracy which have recently afflicted our country, and cast an unusual gloom over our annals, you will remark that a great proportion of the guilty persons have been seamen thus engaged, foreigners at Buenos Ayres, or enlisted in our own ports, in violation of our laws. Whether at Buenos Ayres or in Chili, you will use every exertion in your power, consistent with the respect and conciliatory deportment to be constantly observed towards the existing public authorities, to protect the seamen of the United States from all such enlistments, and the owners and masters of the merchant vessels from time to time arriving there from the loss of their men by such means.

The Commercial Digest of the Laws of Foreign Countries with which the United States are in relation, a copy of which has been furnished you, may suggest to you the nature of part of the information which is desirable from South America.

Political information will be equally acceptable. The more particular and correct the information of this nature which you can obtain, the more acceptable it will prove. Besides the struggle in South America for independence, against which Spain is the only opposite party, internal feuds and civil wars have peculiarly marked every step of the revolutions in progress upon that theatre. As an agent and citizen of the United States, the first advice I shall give you is, to observe and report, with all the vigilance and discernment, and penetration and fidelity to your own country, that you possess, the movements of all parties, but to make yourself a partisan to none. From the documents lately received here, it is apparent that a negotiation has been some time on foot between the late Governments of Buenos Ayres and France. It is well known that a negotiation of much longer standing has existed between the same Government and Portugal; nor has Mr. Rivadavia been residing two or three years to no purpose in England. To ascertain the real movements of all these parties, a neutral position, a neutral heart, and an observing mind, are indispensable. In recommending it to your attention, I would add the caution, neither to take upon trust what any man shall tell you, without asking yourself what it is his interest or wish that you should believe, nor to give more weight to conjectures than the circumstances under which they are formed will warrant.

By the latest accounts that we have received, the Government, the Congress, and the constitution of the provinces of La Plata were overthrown; the province of Buenos Ayres stood alone, with Don Manuel de Sarratea as Governor, at its head. They were in negotiation with General Artigas,

of the Oriental Banda, and with General Ramirez, commander of the Monteneros. In what those negotiations will result, we are to learn hereafter; and what their effect will be upon the relations of all with the Portuguese at Montevideo is yet to be seen. Should you remain at Buenos Ayres, we shall expect full communications from you as frequently as opportunities for transmitting them may occur. I am, &c.

JOHN QUINCY ADAMS.

JOHN M. FORBES, Esq.

Extract of a letter from John M. Forbes, Esq., Agent of the United States at Buenos Ayres, to the Secretary of State, dated

SEPTEMBER 2, 1821.

I shall confine myself to a general summary of leading events since my last. The first in order of date is the total defeat of the party of Ramirez by a wing of the united armies of Santa Fe and Cordova, under Don Francisco de Bedoya, Substitute Governor of Cordova. The action was fought at Francisco, on the Rio Seco, on the 10th of July, and the news was most joyfully received here on the 21st of the same month.

I have great pleasure in announcing to you a new organization of this Government, which promises great solidity and character, and from whose exertions the most important reforms are daily taking place. The Departments of State and Treasury were, until the 18th of July last, united in one person, Don Juan Manuel de Luca; the junta then decreed that these departments should be separated, and the Governor called to the first, (*Don Bernadino Rivadavia*,) with the title of Minister of the Government and of Foreign Relations. Mr. Luca remained charged with the Department of Treasury until the 1st August when he offered his resignation, which was accepted, and a complimentary decree of the 8th August, published with acceptance of the Governor. Don Manuel Jose Garcia, many years diplomatic agent of the Director at Rio Janeiro, has since been appointed to that office. These two gentlemen (*Rivadavia* and *Garcia*) both possess a great share of public confidence; have both acquired experience in public affairs by long residence near foreign courts; and they both seem animated by a zealous desire to establish order in the various branches of the Administration, and economy in the public expenditure. This spirit of reform, which was the great cause of the overthrow of *Sarratea*, by exciting the discontent and violent opposition of military men, now furnishes also a hope to the partisans of *Pueyrredon*, who are raising great clamor against the new Ministers, and working diligently to regain their influence. In short, the present moment seems to be the crisis of a struggle between public virtue and corruption, between a new-born impulse of public opinion growing in the liberty of the press with that of Parliamentary debate, and the rotten legacy of the viceroyalty, the deleterious influence of military patronage. It is a struggle, on the event of which hangs the future liberty and welfare of this province. May Heaven

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smile on the future efforts of virtue and patriotism! Another very important event has occurred since my last report. The annexation of the Banda Oriental to the kingdom of Brazil, and the recognition of the independence of these provinces by His Most Faithful Majesty King John—these measures were simultaneous and correlative. On the 28th July, Don Juan Manuel de Figuieredo presented himself to this Government with the character of Consul of Portugal and Brazil, and with a letter of credence from the Brazilian Secretary of State, acknowledging the independence of these provinces, and expressing a hope that these provinces would acknowledge any and all Governments *of fact* which should be admitted and obeyed by the people of any neighboring provinces. This Government received Mr. De Figuieredo with great courtesy, and passed over in silence the recognition with its implied condition. The whole business, on both sides, appears to me to be quite theatrical. Mr. Figuieredo, a conspicuous actor in the first scene, he retired suddenly from all political agencies, and from this life! On the morning of the 21st August, being apparently in perfect health, and whilst walking in his saloon, waiting for his breakfast, he fell down instantly dead! By order of Government, his body was opened by a surgeon, in presence of some distinguished law officers, and his stomach and bowels found to be in a healthful state; whence it results that he died of apoplexy. Soon after Mr. Rivadavia's coming into the ministry, to wit, on the 5th August, I was promised a long conference with him on all the objects of my agency; but as he came to me in company with Mr. Luca, I could only hold some desultory conversation touching cursorily on some topics. Mr. R. then promised me for the next Thursday a particular audience, but I am sorry to say that the fulfilment of this promise has been delayed from week to week to this hour.

I yesterday saw Mr. Rivadavia for a few minutes, and again received an apology for his delay of the long-promised conference. I took occasion to say that I was aware of his unceasing occupation in the arduous place he held, and must conform to his convenience, but that there was one subject on which I had been instructed to communicate the views of my Government, and which, by the information daily received, became most imperiously pressing, as interesting to the character of this Government, which I knew he had so much at heart. I then stated that, by late advices from the West Indies, the horrors of piracy, which had so justly excited universal indignation, were daily increasing, as well by the numbers of the vessels as by their strength of armament and the boldness of their nefarious enterprises; that, recently, a vessel fitted out here under the name of the Confederation had changed her name and her commander, and was captured under the commission of Artigas by a French frigate, and carried into Martinique, from whence the captain and a number of the crew, being seamen of the United States, had been sent to Philadelphia in a French brig for trial; that all these vessels were notori-

ously furnished with several different commissions, and, according to the privateering regulations of this province, they were to be deemed pirates; that one of them had recently fired on a Government brig of France, and killed the commander; that I was instructed by my Government to make the strongest remonstrances on this subject. To all these observations Mr. Rivadavia replied that this evil would no longer exist; that there would soon be given an order recalling all privateers; that he was fully convinced that the most important object with this Government is to acquire the good-will and friendship of all other Governments, and that he was determined to make every sacrifice to attain this great end. He said that Governments seated in perfect peace and security reasoned calmly on these subjects, but that his country had experienced so many difficulties in its struggle for independence that the Government had been compelled to adopt the strongest measures against the Spanish commerce; but, said he, "this is now all finished."

At the moment I am writing, a salvo of artillery, and the most extravagant demonstrations of joy through the streets, announce the capture of Lima by San Martin's besieging army. If this news be true, it puts the seal to the independence of South America. The Spanish royalty, driven from its last hope in these provinces, and enlightened by a representative Government, will, I think, within six months, acknowledge their independence.

Extract of a letter from John M. Forbes, Esq., Agent of the United States at Buenos Ayres, to the Secretary of State, dated

SEPTEMBER 11, 1821.

Enclosed I transmit an important State paper published here—a manifest of the Governor and his secretary on the projet presented to the honorable junta in relation to the congress now assembled at Cordova, together with the projet submitted, which, as will be seen, is intended to lay the foundation for future federation. Messrs. Rivadavia and Garcia are pressing with great vigor their system of reform, and, by a strong blow at the root, have violently shaken the branches of the tree of corruption. Consternation has been spread through the ranks of smugglers, by the arrest and close imprisonment, the day before yesterday, of Don Fernando Calderon, first inspector of the custom-house. This man, although enjoying a very liberal salary, has notoriously patronised the unblushing atrocities of the giant smugglers who have totally dilapidated the revenues of the country for years past. The leading man, accustomed to ask and obtain every thing of the Government, yesterday solicited of the Governor a mitigation of the imprisonment of Mr. Calderon, and perhaps his discharge on bail. The Governor consulted Mr. Rivadavia on the expediency of listening to the call of mercy. The latter replied, very respectfully, to the Governor, that he certainly had the power and the responsibility for any measures he might adopt, but that,

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if his Excellency yielded to the solicitations in question, he (Mr. R.) must decline any further service as secretary. This firmness prevailed. The truth is, Mr. Rivadavia, being the father of the incipient system of order and virtue, from his growing influence, has become indispensable to the accomplishment of the views now cherished by the public opinion. If this system should prevail, the immediate effect of it will be the prevalence of civil over military influence.

Extract of a letter from John M. Forbes, Agent of the United States at Buenos Ayres, to the Secretary of State.

SEPTEMBER 28, 1821.

I have a despatch from Judge Prevost, containing the gazettes from Lima, published since the revolution there, which I shall forward by the first direct opportunity. The night before the last, (26th instant,) the Governor (Rodriguez) received an official despatch from General San Martin, confirming the previous news of the surrender of Lima to the liberating army, and accompanied by gazettes giving the details of that important event. Yesterday morning this great event was announced to this city by salvos of artillery from the fort and national vessels, which were repeated at noon and at sunset. At five o'clock in the afternoon, the Governor, attended by his Ministers and all the public functionaries, went to the cathedral to attend a *Te Deum*, and in the evening the city was brilliantly illuminated; other public festivities are said to be contemplated, among which a ball by the Chilean Minister at the theatre, and another by the Government, are spoken of. In fact, this event is generally considered as a finishing blow in the contest for independence. Enclosed is a paper just published here, containing a familiar letter from San Martin, (addressed, I presume to his father-in-law, Mr. Escalada,) signed Pepe, which is the familiar abbreviation of Joseph; also, various documents relating to the taking possession of Lima; a correspondence between San Martin and the Archbishop of Lima; the declaration of the Cabildo, &c. By these public papers, it appears that San Martin has added to his fame by the moderation and respect for public opinion which he has manifested on this great occasion. Every thing here breathes joy and the brightest hope of the perfection of their political happiness. The congress at Cordova is now entirely lost in the contemplation of a grand congress, which it is said will be agreed on by the three great Republics of Peru, Chili, and La Plata. Perhaps the sister Colombia may be invited to this family party.

Enclosed I send you copies of my letter to Mr. Rivadavia on the subject of privateering, or rather of piracy, dated 14th September, copy of that Minister's reply, under 15th September, and of a conference I had with him on the 17th of the same month. Enclosed is also a minute of a previous conference with said Minister on the 5th August last.

Among the important events which have occurred on this side of the mountains, I must not

omit to notice the total destruction of the party of Jose Miguel Carrera, and the public execution of that active, intelligent, and extraordinary man. Enclosed I herewith transmit two bulletins published here concerning this event. By the first, it will appear that a colonel (Don Manuel Arias) had organized a revolution in Carrera's band, which he communicated to the Governor of Mendoza on the condition of saving his own life, and those of some of his adherents. By the second, entitled "Detail of the destruction of Carrera," it will be seen that Carrera's party was totally defeated by the Mendozinos on the 31st August, and that, on the 4th of this month, Carrera was shot on the public square at Mendoza; he died with the most heroic courage, asking for only favor of his conquerors that he might be buried in the same grave with his two brothers, who were shot in the same city on a former occasion. It would be well for humanity if the story of this event stopped here; but I again have to state another act of savage ferocity. The murdered body of this brave and distinguished man was shockingly mutilated; his head was cut off and exposed in the square of Mendoza; his right arm was sent to the Governor of Cordova, and his left to the Punta San Luis. When these particulars were known here, they excited the sentiment of horror; and it has even been said that if this victim of the ferocity of their half savage brethren at Mendoza had been sent to this place, even his life would have been probably spared.

Carrera, by his great personal resources, had proved the most dangerous enemy of the present state of things in these provinces; and had San Martin failed in Peru, and had Carrera survived that failure, he would have menaced the tranquillity of Chili; thus his death is a great event for the present rulers here, although the manner of it may be very revolting to their more civilized breasts.

OCTOBER 1, 1821.

Since writing the foregoing, there has been a further publication of papers connected with the occupation of Lima, containing certain proclamations of Generals San Martin and Arenales; this publication I herewith enclose. The new ministers have very judiciously availed themselves of the present moment to propose to the junta a general amnesty, and that all those who have been exiled for differences of political opinion should be recalled to the bosom of their country: this proposition, so worthy the high-minded cause of the present ministry, and so well calculated to conciliate all parties, is to be discussed this evening at the junta. I shall attend the debate, seats being assigned to the foreign agents. Among the events tending to consolidate the moral and physical force of these provinces, it is said that a revolution has taken place in the Entre Rios against the brother of the slain Ramirez. At the head of this revolution is a Mr. Mansilla, of whose rank and history I am ignorant. The flotilla of this province is co-operating, and further assistance has been asked of Lopez, the Governor of Santa

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Fe. The trade of the Baxada has been opened in consequence of this revolution. I just now met Mr. Rivadavia in the street, and took the occasion to remind him of the decree which he had promised to send me on the subject of privateering; he said it depended only on him to reduce it to writing, which he had not yet had time to do. He has given me reason to hope that he will call on me to-morrow; but the Herculean labor of cleansing the Augean stables so entirely occupies him, day and night, I sometimes fear he will be quite exhausted before he can accomplish it.

Copy of a letter from John M. Forbes, Esq., United States Agent at Buenos Ayres, to Mr. Rivadavia, Minister of Foreign Relations.

BUENOS AYRES, September 14, 1821.

SIR: Although I have been more than ten months in this city, I have never until now found a moment when, under all circumstances, I deemed it expedient to lay before this Government the sentiments and views of that of the United States in relation to many interesting subjects as contained in the instructions I received on my departure from Washington. On the recent organization of the Government, I intimated to you the desire to hold a full and frank conference, which you had the goodness to promise me at the commencement of the past month, but which has been unavoidably delayed by your more pressing occupations.

Appreciating as I do the great and efficient efforts now making by you in the cause of your country, I should most willingly continue to wait your convenience for the proposed conference, were I not impelled by recent information to press on the early attention of this Government one of the subjects on which I am instructed by that of the United States—I mean those indiscriminate violences which are daily committed on the ocean against the peaceful commerce of unoffending nations, under the various flags of the South American provinces.

It is now a long time since those violences have called forth the most pointed reprobation of many Governments in Europe, and of that of the United States. Several governments have made active efforts to repress them by force. These efforts have been unavailing; these privileged plunderers

"Can add colors to the chameleon,

"Change shapes with Proteus for advantage."

There is nothing fixed but the blackness of their purpose and the boldness of their atrocities. They are furnished with various commissions, and navigated by crews of men without country, without morality, and without other ties than those of crime and plunder. By the privateering regulations of Buenos Ayres, a privateer owned here, or commissioned by this Government, who shall be furnished with a commission from any other prince or republic, even if allied with this, "shall be adjudged a good prize, and her captain or commander punished as pirates." It is therefore under the sanction of its own laws that I presume to call

the early and efficacious intervention of this Government to vindicate those violated laws. But, sir, it is, above all, from a full faith in those sentiments of honor, that love of order and justice which so eminently distinguish every step of the present administration, that I derive the strongest hope that this call will not be disregarded. The public gazettes recently received from the United States contain several well-authenticated statements of new outrages by these freebooters, whose numbers are multiplied, and the boldness of their wicked enterprises increased by their impunity. I will not swell this written communication by any extracts from the information received; but hope that, at an early day, it will be convenient for you to admit me to a personal conference, when I shall be happy to communicate with you in that spirit of frankness, which is the best pledge of friendship, as well the facts in my possession as the feelings of the Government of the United States on this highly interesting and important subject.

I avail myself with pleasure of this occasion to renew to you, Mr. Minister, the assurances of my most distinguished consideration and respect.

Mr. Rivadavia to Mr. Forbes.

BUENOS AYRES, Sept. 15, 1821.

The Minister of Government and of Foreign Relations has had the honor of receiving the official note from the agent of the United States under yesterday's date, and he considers it as his particular duty to make an acknowledgment of the honorable distinction the said agent shows towards him. With respect to the principal affair therein contained, he can only repeat what he had the satisfaction to make him acquainted with in his last interview, which was, that the Government had adopted every measure in its power to suppress the evils committed by privateers of this country towards the commerce of neutral nations from the abuse of their commissions. Nevertheless, the Minister of Foreign Relations feeling desirous of contributing towards the completion of these measures as far as they are capable of being made perfect, he will be happy to receive any further explanation on this subject that the agent of the United States may think proper to give him: for which purpose, it will be taken as an honor if the agent would take the trouble to call on the Minister at his house on Monday morning, the 17th instant, at eleven o'clock.

The Minister of Government and of Foreign Relations expresses his thanks to the agent for the distinction he confers upon him, and begs to return it by the assurances of his consideration and respect.

BERNARDO RIVADAVIA.

TO JOHN M. FORBES, Esq.

Extract of a minute of a conference with Mr. Rivadavia, Minister of State.

BUENOS AYRES, September 17, 1821.

I received this morning at ten o'clock, by the hands of one of the clerks of the department, an

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answer from the Minister of State to my letter of the 14th instant, containing an invitation to a conference at eleven o'clock at his house. Although the notice was too short to admit of any preparation, I gladly accepted the invitation, taking with me my instructions, including those intended for the late Commodore Perry. I found the Minister, Mr. Rivadavia, quite alone, and was, as always, well received. I commenced my conversation by very sincere assurances of the enthusiasm I felt in the present march of events, and compliments to the Minister on his zealous efforts for the establishment of order in the administration, and the formation of a sound public opinion in the country. I then observed that, not having had time to prepare extracts, I had brought my instructions *in extenso*, and would ask permission, in frankness and friendship, to read certain parts of them in the original language in which they were written, which I was aware was well understood by him. I then read the assurances of the good-will of the United States towards these provinces, and the interest they had constantly felt in the success of their efforts for independence. I continued through the history of our diplomatic correspondence and measures in relation to the South American affairs, to all which the Minister listened with much attention and apparent approbation. When I communicated to him the fact that the United States Government had proposed to those of France and England to acknowledge, in concert with them, the independence of Buenos Ayres, in reply to my question he confessed his previous ignorance of that fact. I then continued the forcible expositions in the instructions to Commodore Perry of the evils and horrors of the system of piracy as practised by vessels carrying various colors of the South American provinces, and stated to him that the United States would not acknowledge as legal any commission granted in blank; which he said was perfectly just, and continued by saying that he was fully sensible of all the injury which had been done to the cause and character of these provinces, and deprecated as much as any one the atrocities which had been committed on neutral commerce; that the Government had determined on an entire change of system, and that, probably, this day a decree would be drawn up revoking all privateer commissions, and ordering them all to return within a given period. But this decree would be communicated to me, when it would be seen if any thing more efficacious remained to be done within the scope of the Government's authority. I observed that the decision of the Government was in perfect unison with the whole system now going into operation, eminently wise and politic, and would have a most important influence on the opinion of other nations in regard to this country; that, as nothing had so much operated to damp the enthusiasm of my countrymen in favor of South American liberty as the enormities committed under the patriot flags, so nothing would so effectually tend to reanimate their good wishes as the suppression of those crying abuses. I stated to the Minister the measures adopted by Congress to repress the predatory

system, and particularly the act of the 20th of April, 1815, of which he requested and I promised a copy. I next read from the instruction of 12th July, 1820, the remarks on the subject of commercial preferences, and the magnanimous feeling with which the Government of the United States disclaimed any wish to barter an acknowledgment of the independence of these provinces for any exclusive advantages in their commerce; at the same time, their firm reliance that no such exclusive privileges would be granted to other nations to the prejudice of the United States. On this, Mr. Rivadavia assured me that it was the firm determination of this Government to grant no exclusive privileges of commerce to any nation whatever, and that I might communicate this decision to my Government, with an assurance that the most complete reliance might be placed on it. The Minister proceeded, that his most decided opinion was, that no measure whatever ought to be taken to solicit an acknowledgment of the independence of these provinces by any Government. He expressed himself in flattering terms of his good-will towards me personally, and added, that it would be an abuse of the confidence I had evinced towards him if he were to engage me to make any representations to my Government tending to that end, and that he was much less disposed to take any such measure towards any Government of Europe; that such proceeding must operate, if unsuccessful, to the humiliation of the provinces, and, if successful, to mislead the people, by persuading them that such recognition was all-sufficient to their political existence and happiness; that, in his opinion, the most efficacious system would be to establish order and wise institutions of government throughout the provinces, and to show themselves worthy of the fraternity of other nations, when it would be voluntarily offered; that such voluntary recognition, in every point of view would be much more beneficial than that protection which should result from a compromise of honor and interest; that he had told his countrymen, *de haute voix*, his sentiments on the important topic of self-government; that much was to be done, but that he hoped to see the successful progress of a sound system of domestic and foreign policy. Our conference lasted, with a short interruption, nearly two hours, and we separated with assurances of mutual satisfaction.

An exact minute taken immediately after the conference.
J. M. FORBES.

Buenos Ayres, Sept. 22, 1821.

SIR: Enclosed I have the honor to transmit a correct copy of the act of Congress passed on the 20th of April, 1818, for the punishment of certain crimes against the United States, to which act reference was had in the conference to which you did me the honor to admit me on Monday, the 17th instant.

I pray you, Mr. Minister, to accept the renewed assurances of my highest consideration and respect.
J. M. FORBES.

Hon. B. RIVADAVIA, *Minister*, &c.

*Condition of Spanish South America.**Mr. Rivadavia to Mr. Forbes.*

BUENOS AYRES, Oct. 6, 1821.

The Minister of Government and of Foreign Relations, in consequence of the offer made, has the honor to transmit to the agent of the United States a copy of the decree which has just been issued by the Department of War and Marine concerning privateering.

The Minister salutes the agent with his most distinguished consideration.

BERNARDO RIVADAVIA.

DECREE.

DEPARTMENT OF WAR,
Buenos Ayres, October 6, 1821.

Among the resources which the unfortunate rights of war have rendered lawful, and its object necessary, is privateering. The wars of the independence of the provinces of Holland and of the United States of North America have proved that this kind of warfare is the most advantageous for a country which prepares to defend its independence against a more ancient and remote country that has governed it. It is impossible to prevent or repress all the abuses which may result from privateering. The Government which finds itself under the painful necessity of authorizing, and even of encouraging it, has only two ways of lessening its illegal consequences, and in so far has only two obligations in this respect: the first is, to dictate such rules and take such precautions and guarantees as may correct abuses, not suffering them to pass unpunished. In this respect the Government of these provinces has fulfilled its duty, and the regulation of privateers proves it. The other obligation is, to put an end to this kind of warfare, either when it shall be no longer necessary to the object which induced it, or when the effect which it produces no longer equals the risks and inconvenience which result from it. The Government considers these two cases as having taken place, and, in virtue thereof, it has agreed upon, and now decrees, the following articles:

1. In future, no commission of privateering whatever shall be granted without a previous solemn publication, expressing the cause which obliges the Government to have recourse to this measure.

2. Every individual who possesses any commission, and shall be now in the territory of this province, shall be obliged to present it to the Minister of Marine within fifteen days from the date of this decree.

3. Those individuals who hold privateer commissions, and are in countries situated on the other side of the equinoctial line, or on the coast of the Pacific, shall be held to present the said commissions at the Ministry of Marine within the term of eight months.

4. The sureties given shall answer for the fulfilment of the foregoing articles.

5. Every commander of a vessel armed as a privateer in virtue of a commission of any one of the Governments which have commanded in this capital, on sight of this decree, shall cease to cruise,

and shall put into port to disarm and return his commission.

6. Every one who shall contravene the preceding article will incur the pains of piracy.

7. Every vessel which, after the term of eight months from the date of this decree, shall continue to cruise under the authority of a commission of the Government of this country, shall be treated as a pirate.

8. The Minister of War and Marine is charged with the execution of this decree.

MARTIN RODRIGUEZ,
Minister of War and Marine.
FRANCISCO DE LA CRUZ.

Copy of a letter from John M. Forbes, Esq., Agent of the United States at Buenos Ayres, to the Secretary of State, dated

OCTOBER 8, 1821.

SIR: The detention of the vessel by which I had prepared to send the foregoing despatch furnishes an opportunity to communicate a translation of the promised decree for suppressing privateering. It has not yet been published here, but will undoubtedly appear in the first official register, which will perhaps be printed to-morrow or next day. I hope that the terms of it will prove satisfactory to the Government of the United States. Although the right is reserved of resorting again to this kind of warfare, yet I hope that the restrictions under which it will be renewed will be more efficient to guard against those abuses which have heretofore been so justly and extensively complained of.

By the schooner Essex, to sail to-morrow for Providence, I shall have the honor to transmit duplicates, together with Judge Prevost's despatch, mentioned in the foregoing. I am, &c.,

JOHN M. FORBES.

OCTOBER 11, 1821.

P. S.—By this vessel, (the Essex, via Providence,) I send Judge Prevost's despatch, and a large file of newspapers. The decree against privateering was published yesterday in the *Registro Oficial*.

Hon. J. Q. ADAMS, *Sec. of State.*

Extracts of a letter from J. M. Forbes, Esq., to the Secretary of State, dated

BUENOS AYRES, October 26, 1821.

I have previously reported the total destruction of the parties of Ramirez and Carrera, together with the death of those chiefs, the barbarous mutilation of their bodies, &c. By these events, the influence of this province over the others is much increased, and, by the wise course of the present administration, the moral force of a sound and exemplary political deportment will be added to the success of their arms; and I hope that the day is not far distant when all the jarring jealousies which have hitherto so perniciously counteracted the progress of civil liberty will be put to silence, and the wise men of every section of this country will

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be brought to a cordial co-operation to attain the high objects of their political destiny. But much, very much, remains to be done before the general union of the great sections of this almost boundless country in any one system of government can be effected.

In the mean time, Rivadavia and Garcia, firm as they are enlightened and patriotic, are pursuing "the even tenor of their way." They have added public credit to the other sinews of war which this province before possessed, by repaying with great punctuality, in gold, several loans, (a thing without example in the history of this revolution;) they enjoy now to so great a degree the confidence of the community, that I believe they could borrow to any reasonable amount for an immediate exigency. It is said, also, that an entirely new system of finance is agreed on, and will appear in a few days. By this tariff, as it has been represented to me, the duties, with a very few exceptions, will be ad valorem, and will vary from five to fifteen per cent. Every possible measure is taken to prevent smuggling, and public opinion and morality are cherished by the Government. If, therefore, Buenos Ayres, in all the darkness of her most gloomy period, public sentiment paralyzed by deadly dissensions, and public resources completely dilapidated, has been able to struggle successfully against the machinations of the other provinces, it is not too rash to expect that when she fights with a twofold armament of reason and force, seconded by a vigorous public credit, the victory must eventually be hers. The most deplorable result, however, of these continued agitations, is the necessity of continuing an onerous military establishment.

The most alarming state of agitation prevails in the neighboring kingdom of Brazil. It was some days since confidently reported, on the authority of Captain McLean, of the British Government brig Beaver, in six days from Rio to Montevideo, that Prince Don Pedro was to have been crowned King of Brazil on the 13th of the present month. Subsequent accounts contradict this fact, and it is now no longer believed. It is, however, well known that the public mind there is in a most feverish state, and, should civil war burst forth, it would be the signal of the emancipation of a numberless horde of slaves, and the most horrid scenes of blood and devastation would overwhelm that kingdom, and eventually threaten these provinces, where it would find easy victims in the scanty white population here. The progress of this all-destroying flame could only be arrested by the Indians, and, in such a conflict, this delightful country would be totally lost to civilization.

Mr. Forbes to the Secretary of State.—Extract.

BUENOS AYRES, November 8, 1821.

Since my last respects, we have received news from Lima and Chili, by which it appears that the royalist army, which had evacuated Lima on the 6th July under La Serna, had returned on the 22d August under the command of Canterac, La

Serna remaining sick at Xauxa. The strength of the returning army was between three and four thousand men; the official accounts say that they avoided an engagement with San Martin, but I have seen several private letters, and one from a citizen of the United States, who was two days in San Martin's camp, in view of the royalist troops, and who states that San Martin's force was much superior, and extremely anxious to give battle; but that San Martin retired, and permitted the unmolested march of the royalists into Callao. The motive of such a proceeding is generally deemed strange and incomprehensible; but it occurs to me that San Martin, being sure of eventually forcing the garrison of Callao, augmented as it is, to a capitulation, prefers to continue his influence by protracting the military conflict until the civil organization of this new-born Republic shall be completed, rather than to put down the remnant of the royal troops, and leave the country to the agonies of conflicting factions; or, in a few words, to make himself, at his own choice, King, Dictator, or Director. He has at present taken the head of the civil and military power, with the title of Protector. All accounts agree in the enthusiasm for independence prevailing in Lima. On the late return of the royalist troops, it became necessary to imprison twelve hundred old Spaniards, as it is said, to preserve them from the popular fury. I have conversed on these events with several gentlemen well acquainted with Peru and Lima, and particularly with a sensible friar, native of, and, until recently, resident at Lima, who agrees in the general opinion that the return of the troops to Callao is a most fortunate event, inasmuch as it places the termination of the war in the hands of San Martin; whereas, had La Serna kept the country, and increased his forces, he might have continued the war for a very long time. I send enclosed a bulletin issued on the subject, by which you will be able to see and appreciate events in their detail.

Of this province I have only to say that there are still active but occult efforts making to overturn the present administration, and bring the Pueyrredon party into power.

Extracts of a letter from John M. Forbes, Esq., Agent of the United States at Buenos Ayres, to the Secretary of State, dated

NOVEMBER 13, 1821.

Since my last, we have the important news of the surrender of Callao. I send enclosed the bulletin published here, by which you will see the particulars of the capitulation. Private letters state that Canterac's army was much harassed on its retreat, and was still pursued. It is said that eight hundred of his army had joined that of San Martin. It was thought that there would not remain five hundred men to join La Serna. I have seen a private letter which states that when the report reached Lima of Canterac's approach, funds to the amount of five or six hundred thousand dollars were embarked on board the ships at An-

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con. Lord Cochrane had been for some time making every exertion to procure money to pay off the crews of his ships; but without effect.

On hearing that this amount was on board the different transports, he repaired to Ancon with the O'Higgins and Esmeralda, and forcibly took possession of the whole sum, in defiance of the strong representations of the General, and immediately paid the arrearage due to his men. Report says that he has not dared to put his foot on shore since he took this violent measure.

NOVEMBER 16, 1821.

The "Registro Oficial," No. 13, published yesterday, contains the resolution of the honorable junta on the subject of general amnesty, and oblivion of political acts and opinions, together with a decree of the Governor, by which all those who have been exiled under the special powers vested in the Executive by the decree of 6th of October, 1820, and all who have voluntarily absented themselves to avoid the evils of political agitation, may forthwith return without passports; only nine persons are excepted from this amnesty, and they are not named.

It is said that an officer has arrived here, sent by the Governor of Tucuman, charged to solicit military aid to deliver that province and its vicinity of the presence of the royalist troops, and at the same time to declare a perfect coincidence of opinion with that put forth by this Government on the subject of the confederation. Every thing continues to go on well here. Enclosed I send a printed paper entitled *Dictamen de un Arribeno*, (which means citizens of the interior provinces.) It goes to maintain the inexpediency of a confederation at present, which is the ground taken by this province.

Extract of a letter from Mr. Prevost, Agent of the United States in South America, to the Secretary of State.

ST. JAGO DE CHILI, June 30, 1821.

In my last I mentioned the departure of Lord Cochrane from Huacho, with six hundred troops, for the purpose of landing them somewhere to the southward of the capital, so as to intercept the supplies from that quarter. It is now ascertained that his lordship has directed this force to a different point, with objects distinct from those contemplated by the General. After proceeding to Pisco, and pillaging that place, he went to Arica, where there was a considerable quantity of merchandise in deposit for the market of Lima, took possession of the town at the point of the bayonet, and as much of the moveable property as he could grasp. It is the third or fourth time different sections of the coast have been thus distressed by a mode of warfare injurious to the cause, always at variance with that strictly enjoined and as rigidly adhered to by the General. In addition to which, he has lately committed outrages upon the British flag, by impressing seamen, and by detaining the vessels from which they were taken, in order to use them as transports. These acts, of course,

are disavowed by the Government; but they have given rise to a correspondence which threatened a serious result. Among other subjects, that of the blockade was introduced: the one insisting upon its nullity in toto, if contemplated to embrace any portion of the coast not covered by an actual force; the other denying the consequence, and maintaining the sufficiency of the force. Although this Government might have sustained the position assumed, by recurring to British practice, yet, in their situation, it was neither prudent nor justifiable to assume any equivocal grounds, particularly on such a subject; and I thought it proper therefore, to present a note to the Secretary of State, asking the truth of the case, and stating specifically the principle to be recognised. No. 1 is a copy of mine, and No. 2 of that of the Director, written in our language and in his own handwriting. I had hoped [to have procured] the correspondence, but the delays are such here in all the public offices that I cannot avail myself of it for this opportunity; it is not now, however, important, except for the greater satisfaction of the President, inasmuch as an order has been issued in conformity with his note; and conveyed to Sir Thomas Hardy, who acquiesced in its propriety. There have been upwards of a dozen English merchantmen under capture, some of which have already been condemned.

Nothing has reached us from the army later than the 4th of May, when San Martin had resumed his former station at Ancon, within a few leagues of the capital. It is feared here that the absence of Lord Cochrane on the expedition I have already referred to may retard the views of the General, if not defeat the object of his approach. Bolivar has sent a considerable force to Guayaquil, seven hundred of which have already landed at the place, from whence they are to march for the Congress of Quito.

No. 1.

Mr. Prevost to Mr. Joaquin de Echeveria, Secretary of State of the Republic of Chili.

ST. JAGO DE CHILI, June 18, 1821.

SIR: I understand that there is a letter in town from Sir Thomas Hardy, addressed to the British merchants of this place, in which it is stated that this Government considers the whole coast of Peru south of the capital as under blockade, although there is no force stationed before any one port except that of Callao. This information is so much at variance with the impressions I have uniformly received during my residence here, that I must believe some mistake has arisen either with my informant or with the British admiral.

Will you therefore allow me, sir, to ask from you the fact on this subject? It is a question of great moment, one of peculiar interest in the United States since our last contest with Great Britain, and one upon which I am anxious that there should exist no difference of opinion. The principle upon which the right of exclusion from any specific port is founded, is the temporary sovereignty acquired by the presence of the force of

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one belligerent, competent, as to the other, to control the mouth of such port or harbor. Hence, it is obvious that to the legal exercise of the rights growing out of the blockade the force must be permanent in its station.

There will offer a conveyance to the United States in a few days, of which I could wish to avail myself, as well to satisfy the President of the strict adherence to principles maintained by his Excellency the Supreme Director, as to defeat the effects of rumors that must have a pernicious tendency at home.

J. B. PREVOST.

HON. JOAQUIN DE ECHEVERIA.

No. 2.

General O'Higgins to Mr. Prevost.

JUNE 23, 1821.

MY DEAR SIR: I am very much obliged to you for the indication which favors me with your note of this day. You might be sure of my resolution about the necessity of an actual force to be stationed at the sight of the ports that are to constitute the blockade. This very moment I am answering Sir Thomas Hardy about this point, declaring that must be considered as such to the ports from Pisco to Ancon, and orders will be despatched to the vice admiral, Lord Cochrane, and General San Martin, by the first safe conduct.

By next Tuesday's post to Valparaiso will be sent to you, by the Minister of State, all which has occurred about the matter; meanwhile, I remain yours, most sincerely,

B. O'HIGGINS.

Extract of a letter from Mr. Hogan, Commercial Agent of the United States at Valparaiso, to the Secretary of State, dated

AUGUST 18, 1821.

I have now the honor to inform you that, on the 13th instant, a despatch vessel arrived here from Callao, which place she left on the 23d ultimo, with advices to this Government of the surrender of Lima to General San Martin, and of the inhabitants having sworn to the independence of the place. On the 12th of July the Spanish troops proceeded to the mountains with their General, who first placed a garrison of two thousand men in Callao, which place had not surrendered when the despatch came away, but could not be expected to hold out, as there was not more than a week's provision in the fortress, which was to be attacked by land and by sea from the squadron. The sufferings of the people in Lima for want of breadstuffs and other food had been great; but there is no public gazette issued explanatory of the proceedings, and private letters are short and unsatisfactory. It is impossible to say to what extent they had carried their attachment to royalty, or rather their opposition to being conquered by the forces of Chili, whom they had even treated and considered as an inferior people, not entitled to the enjoyment of equal rights with themselves. To expect them to submit tamely to the dictation

of this slip of country is, I believe, more than will be realized, although there can never be any doubt of the country of South America facing the Pacific ocean being forever free from the Government of Old Spain.

An additional export duty of 15 per cent. is laid by this Government upon all articles shipped from this port for Lima; many vessels are in port ready to depart as soon as permitted. The Constellation was at Callao, and may (by report only) be expected here soon.

Mr. Prevost is expected from Santiago, to embark by the first vessel from Lima. I send this letter in duplicate by two ships bound this day to London, in the hope that either may be put on board of some vessel bound to the United States. I have also written to Mr. Rush by them, requesting he may communicate the information by the earliest opportunity.

Soon after my arrival here, I wrote to Captain Ridgely, requesting he would use his endeavors to inform you, by way of Panama, of the fall of that important section of South America, which I doubt not will be the first communication you will receive.

Act of the Independence of Peru.

IN THE ROYAL CITY OF PERU,

July 15, 1821.

The senors who compose it having yesterday assembled in the most excellent Senate, with the most excellent and most illustrious senor the Archbishop of this holy Metropolitan church, the prelates of the religious convents, titulars of Castile, and various neighbors of this capital, for the purpose of fulfilling what had been provided in the official letter of the most excellent senor the General-in-chief of the liberating army of Peru, Don Jose de San Martin, the contents of which were read; and persuaded thereof, reduced to what persons of known probity, learning, and patriotism, who inhabit this capital, would express, if the general opinion for independence had been resolved on, which vote would serve as a guide to the said General for proceeding to take the oath: all the senors agreeing for themselves, and satisfied of the opinion of the inhabitants of the capital, said that the general will was decided for the independence of Peru of the Spanish dominion, and of any other foreign dominion whatever, and that they would proceed to its sanction by means of the corresponding oath; it was compared with a certified copy of this act to the same most excellent senor, and the senors signed it.

The Count of San Isidro,
Bartolome, Archbishop of Lima,
Francisco de Zarate,
Simon Ravago,
Francisco Xavier de Echange,
Manuel de Arias,
The Count de la Viga del Ren,
Fr. Geronimo Caverio,
Jose Ignacio Palacios,
Antonio Padilla, Syndic, Proc. Gen.

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Mr. Brent, Chargé des Affaires of the United States at Madrid, to the Secretary of State.

MADRID, July 10, 1821.

SIR: The late session of the Cortes had far advanced when most of the deputies from Mexico arrived. They had been detained two months at Vera Cruz by the commander of the frigate *Pronta*, and were at last obliged to make the best of their way to Spain in foreign vessels, running every risk, and incurring great expense. They had not been long in Madrid when they began to press their claims; and on the 3d of May, Count Toreno, one of the most distinguished members of the Cortes of Old Spain, a friend, as is supposed, to their cause, made a motion in the Cortes that a special committee be appointed, composed of deputies of Ultramar and Europe, to consider of and propose, conjointly with the Executive, such measures as they should deem most proper "to terminate the dissensions prevailing in the various parts of America." This motion was agreed to, and the committee appointed.

While this committee were engaged in their important duties the news was received, about the beginning of June, of the insurrection of Iturbide, and the form of Government proposed by him to be adopted, (copy of which I transmit, marked A,) and, in consequence of a resolution offered by an American deputy, the Ministers appeared on the 4th June before the Cortes, to give an account of the occurrences that had taken place in New Spain. The American deputies availed themselves of this occasion to show to the Cortes and Executive the impracticability of the provinces of America being governed as those of the Peninsula, according to the provisions of the Constitution, on account of their great distance from the metropolis; proved the necessity of adopting prompt and efficacious measures, and pressed the Government and committee to come to an early decision. They then moved that the Government should be requested to direct, without delay, the Viceroy of Mexico to inform Iturbide that the Cortes were occupied in projecting a plan of government for America, and to propose a suspension of hostilities until the resolution should be finally made by the Cortes and Executive. It was stated that, should this step be taken, they were perfectly convinced that Iturbide, and those under his standard, would suspend hostilities the moment they knew that the deputies of New Spain had arrived at the capital in time to be able to make the "just reclamations of those Spaniards." This was not agreed to. A resolution was then offered and adopted, directing that the Minister of Ultramar, "in consideration of the state of New Spain, should propose the measures he might think proper whilst the Cortes were occupied in taking radical ones for its complete pacification."

The committee labored with great assiduity, and had various conferences with the Ministers, who, at first, coincided in the opinions advanced, and in the arrangement proposed by it to be adopted in regard to Spanish America, and which would have been satisfactory to the American deputies.

When, however, it was laid before the King, he was strenuously opposed to it on the ground, as he informed them, that the arrangement contemplated would be a violation of the Constitution; that the public opinion was not prepared for it; that it was against the interest, both of the Peninsula and America; and, finally, he spoke of the opposition that might be made to it by foreign Powers, since they had not been consulted. In consequence of this, the accord between the Ministers and committee ceased; and as according to the resolutions of Count Toreno, which gave rise to the appointment of the committee, it was unauthorized, without the concurrence of the Executive, to offer any plan, none was proposed to the Cortes. The committee made their report to the Cortes on the 24th June, (copy marked B,) and state that the Government not believing that the moment had arrived of convenience and necessity for the adoption of certain measures, they can do nothing more than excite the zeal of the Ministers, to the end that the wished-for moment may be accelerated, and recommend that the Executive should be pressed "to present to their deliberations, with the greatest despatch, the fundamental measures they may think proper, as well for the just and complete pacification of the revolted provinces of America, as to secure to all of them the enjoyment of a firm and solid happiness."

The disappointment and vexation of the American deputies at this result was proportionate to the flattering hopes that had been excited by the unanimity of sentiment that prevailed at the first conferences of the Ministers and committee. They then determined to present, themselves, a plan to the Cortes, having the object in view; and the propositions (copy marked C) were made on the 25th June, which, in substance, are the same as those that had at first met the approbation of the Ministers.

These propositions are, that there shall be three divisions made of America; in each a Cortes, having the powers delegated by the Constitution to the General Cortes, with the exception of the 2d, 3d, 4th, 5th, and 6th powers, that part of the 7th relative to the sanction of treaties, and the second part of the 27th power. In each division, a delegate appointed by the King from among the persons most distinguished for their high qualifications, not excluding members of the royal family, removable at his will, who shall exercise, in the name of the King, the executive power, to be inviolable with respect to the American Cortes, and only responsible to the King and General Cortes. In each, four Ministers: of the interior, of finance, of grace and justice, and of war and marine. In each, a supreme tribunal of justice and a council of state. The commerce between the Peninsula and America to be considered as from one province to another; and the inhabitants of the latter to have equal eligibility with those of the former to all public employments.

New Spain binds herself to pay 200,000,000 reals in six years, and contribute annually 40,000,000 reals to the support of the navy; the other

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parts of America to contribute in the manner that shall be subsequently arranged. New Spain will also pay all the debt contracted within its territory; and all public property to belong to it. On the sitting of the 25th of June, two of the deputies offered an amendment to the fifth article, having for its object to prevent the appointment of delegates being conferred on any of the royal family.

These propositions were preceded by an exposé, read in the Cortes, a copy of which I transmit herewith. In it they state that "they desire the Constitution which ought to make them happy, but which, in the actual state of things, they consider to be a beautiful theory, that can only be reduced to practice in the Peninsula. The Americans are freemen, are Spaniards, have the same rights as the Peninsulars; they are acquainted with, and have sufficient virtue to support them."

The measures recommended by the committee (to request the Government to present a plan at an early period) have been acted upon, as you will perceive by the King's speech, in which he says that his Government, "urged by the Cortes to propose the measures they may think proper for their welfare, on a consideration of the state of those countries, will do so immediately, and with all possible generosity." These will, without doubt, be proposed on the meeting of the Cortes extraordinary, which the speech of the President of the Cortes to the King will have shown you is to take place. It is supposed that its convocation will not be delayed longer than the 1st of October, if so long.

You will perceive that the deputies do not demand an acknowledgment of independence, and pretend not even to aspire to it; and they have declared in the Cortes, on the 4th June, that, if the revolutionists desire independence, it is because means have not been devised that should make the welfare of those provinces compatible with their union with the Peninsula.

The commissioners of Bolivar, (who are still here,) on the contrary, insist upon the acknowledgment of their independence as the basis of any arrangement with Spain. Nothing has been concluded between them and this Government, and all negotiation is suspended.

It is difficult to conjecture what will be the determination of the Cortes and the Executive on this great and interesting question, when we consider, on the one hand, that they cannot be wholly blind to the just claims, the strength, and resources of America, and view, on the other, the prejudices and illiberality that still exist in a high degree in the Executive, and a great portion of the members of the Cortes, and the observation in the King's speech, "that the Spaniards of both hemispheres ought to be persuaded there is nothing he desires so much as their felicity, founded in the integrity of the monarchy, and in the observance of the constitution."

As far as I have been able to form an opinion, it is, that the foreign Powers, during the agitation of the American question, have endeavored to prevent any arrangement between the parties.

On the 9th instant I received a note from Mr. Ravenga, one of the commissioners of Bolivar, requesting an interview with me, (copy marked D,) to which I immediately replied, (copy marked E,) stating that I would receive him that very evening.

In this interview he spoke of his mission to Spain. He said that, when he left Colombia, he had no idea of meeting with the least obstacle; he had calculated to a certainty that his object would immediately be accomplished. He spoke of the ignorance of this country of the real state of Spanish America, of their illiberality, and their prejudices, with warmth, and particularly so of the expression of the King, in his speech, respecting Spanish America. He calculated, he said, upon the friendship of the United States to promote the independence of the Republic of Colombia; he had a full conviction that he could rely upon it. Mr. Monroe, when Secretary of State, had informed him that all the Ministers of the United States in Europe had instructions to advance the acknowledgment of their independence by foreign Powers.

I sympathized with him in the unpleasant situation in which he was placed, and feared that the sentiment in Spain was not as favorable as could be desired. He was perfectly justified, I said, in relying upon the good dispositions of the United States. It was their interest and their sincere wish that the acknowledgment of the independence of Spanish America should be accelerated. The United States had not only been more forward than any other Power in publishing to the world their wishes with respect to her, but had accompanied them with actions, which certainly afforded the best proof of their sincerity; and, among them, I adverted to the Message of the President to the Congress of the United States at the commencement of its last session, in which, alluding to the proposed negotiation between the late colonies and Spain, the basis of which, if entered upon, would be the acknowledgment of their independence, he says: "To promote that result by friendly counsels, including Spain herself, has been the uniform policy of the Government of the United States."

The friendship of the United States, he said, was very grateful to the Republic of Colombia, and he hoped and expected that, at the commencement of the next meeting of Congress, the acknowledgment of its independence would be decided upon; the moment had arrived when all the Powers of the world would see the propriety of it. He calculated that the United States would be the first to take this step; hoped to see a confederacy of republics throughout North and South America, united by the strongest ties of friendship and interest; and he trusted that I would use my exertions to promote the object he so much desired.

I heartily concurred with him in the hope that all Governments would resolve to adopt a measure so conformable to justice; joined with him in the agreeable anticipations of the progress of free principles of government, of the intimate union

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and brilliant prospects of the States of our new world. I presumed, I said, it was not necessary to bring to his mind the high interest felt by the United States in their welfare—an interest in which I deeply participated and desired, as much as he possibly could, the happiness of our Spanish American brethren. What would be the determination of the United States at the period of the commencement of Congress, it was impossible for me to foresee; whether they would consider it a seasonable moment for doing that which was so much desired, was a point I could not resolve.

In this interview, Mr. Ravenga confirmed to me what I had previously learned, that his instructions do not authorize any terms short of the acknowledgment of independence. I observed to him that I presumed no arrangement would be made under them that might have an injurious bearing on the commercial interests of the United States. To this his reply was, that none would be entered into by the Republic of Colombia with Spain that would not be perfectly reciprocal.

I have the honor to be, &c.

THOMAS L. L. BRENT.

A.

ARTICLE 1. The religion of New Spain is, and shall be, the Roman Catholic Apostolical, without tolerating any other.

2. New Spain is independent of Old Spain, and of every other Power, even on our continent.

3. Its Government shall be a moderate monarchy, according to a constitution peculiarly adapted for the empire.

4. Ferdinand VII. shall be Emperor; and if he do not come in person to Mexico to make oath before the Cortes within the time prescribed by them, the most serene infants Don Carlos, Don Francisco de Paula, the Archduke Charles, or some other branch of the reigning family, shall be appointed in his place by the Congress.

5. Until the meeting of the Cortes, there shall be a Junta, which shall have their union for its object, and the compliance with this plan in its whole extent.

6. Said Junta, which shall be styled Governmental, must be composed of the deputies mentioned in the official letter of the Viceroy.

7. Until Ferdinand VII.'s arrival in Mexico, and his taking the oath, the Junta will govern in the name of His Majesty, in virtue of the oath of fidelity taken by the nation; but until His Majesty hath sworn, any orders he may give shall be suspended.

8. If Ferdinand VII. should not deign to come to Mexico, the Junta or Regency shall govern in the name of the nation, until it be resolved who shall be crowned Emperor.

9. This Government shall be sustained by the army of the three guarantees, of which mention shall be made hereafter.

10. The Cortes shall resolve whether the Junta shall continue, or a regency be substituted in its place, until the arrival of the person who is to be crowned.

11. The Cortes shall immediately establish the constitution of the Mexican empire.

12. All the inhabitants of New Spain, without distinction of Africans, Europeans, or Indians, are citizens of this monarchy, with eligibility to all employments according to their virtues or merits.

13. The person of every citizen and his property shall be respected and protected by the Government.

14. The clergy, secular and regular, shall preserve all their privileges and pre-eminences.

15. The Junta shall take care that every branch of the State remain without any alteration, and all the officers, political and ecclesiastical, civil and military, on the same footing as at present. They alone shall be removed who decline entering into this plan, substituting in their place those persons who are most distinguished for their virtue and merit.

16. A protecting army shall be formed, under the title of the three guarantees, because it takes under its protection, 1st. The preservation of the Catholic religion, co-operating, with all its efforts, that there may not be a mixture of any other sect, and attacking all the enemies who may injure it; 2d. The independence under the system already manifested; 3d. The intimate union of Americans and Europeans, guarantying such fundamental bases of the felicity of New Spain. Each individual, from first to last, will prefer sacrificing his life rather than permit the infraction of any of them.

17. The troops of the army shall observe the most strict discipline, according to their regulations, and the chiefs and officers shall remain on the same standing as at present, that is, in their respective classes, with eligibility to such public employments as are vacant, or may vacate in consequence of those who may not wish to follow their career, or any other cause, and those which may be considered as necessary or convenient.

18. The troops of said army shall be considered as of the line.

19. In the same light shall be considered those who may afterwards adopt this plan. Those who do not defer it, those of the former system of independence who shall immediately join said army, and the countrymen who may desire to enlist, shall be considered as troops of national militia; and the form of each for the interior and exterior security of the empire shall be dictated by the Cortes.

20. The employments shall be conceded to true merit, in virtue of references to the chiefs, and in the name of the nation.

21. While the Cortes are assembling, the proceedings against criminals shall be according to the Spanish constitution.

22. For conspiring against the independence, criminals shall be imprisoned until the Cortes decide the greatest punishment next to "lesa Majestad Divina."

23. A strict watch shall be kept over those who may attempt to create disunion, and they shall be reputed conspirators against the independence.

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24. As the Cortes which are about to be installed are to be constituent, it is necessary that the deputies should receive sufficient powers to that effect, and, consequently, the electors ought to be informed that their representatives are to be for the Congress of Mexico, and not of Madrid. The Junta will prescribe just rules for the elections, and will fix the necessary time for them, and the opening of the Congress.

Since the elections cannot take place in March, the term shall be shortened as much as possible.

ITURBIDE.

IGÜALA, February 24.

B.

The special committee, appointed to propose to the Cortes what it judges most conducive to put a stop in the most effectual manner to the disputes and dissensions which unfortunately prevail in the provinces of America, is duly penetrated with the importance of the charge, and desirous of corresponding to the confidence with which the Cortes has honored it. Few questions of such magnitude can be presented to the deliberations of a legislative assembly and to the resolves of a Government as that which at present occupies the attention of the Spanish Cortes; on their resolution and the wisdom of their measures depend the greatest events, perhaps the tranquillity of America, and the rapid civilization of the whole world. Spain seems destined to give to the world, from time to time, striking examples of grandeur, by turns heroidal, or singularly original. The remote seas and regions discovered by her sons since the time of Columbus, in the fifteenth and sixteenth centuries; the renowned valor and martial deeds (which border on the fabulous) of Cortes, Balboa, and Pizarro, did not suffice to their glory; nor that Sebastian del Cano, in his ship Victory, styled the Competitor of the Sun, should be the first to sail round the globe; to complete its measure, they added the arts, civilization, and the religion of their fathers; those vast regions participated of the benefits enjoyed in Europe, and the discoverers did not delay in making extensive to them the advantages derived from their own country. With what enthusiasm and pleasure (as we are assured by Inca Garcilaso) they assembled to enjoy in reciprocal union, and to spread, by their care and attention, over the whole country, the first productions of Europe. The laws relative to India are an eternal monument of the desire which always animated the Spanish Government that America should be treated with the same care and equality as the other provinces of Europe; they state that its natives shall be treated, favored, and defended as the other subjects of the Peninsula. From such just and prudent policy resulted the advantages which afterwards were derived. Cities were erected, which, for their population, beauty, and extension, rivalled the principal in Europe; their products served to augment the traffic and commerce of the whole world; the sons of America, with their talents and wisdom, enlightened the country of Manco Capac and Montezuma; and, not satisfied with spreading their knowledge

over their native land, they have come to Europe to co-operate in the amelioration and prosperity of the Spains, it being conspicuous that many estimable deputies from thence, in the anterior and present Cortes, have taken an active and very principal part in the most important decisions. Such are the fruits which have been collected from the civilization and culture which Spain has succeeded in diffusing beyond the Atlantic, and from them are most evident the injustice and levity with which foreign writers have spoken of Spanish domineering in those regions. The disorders and injustice that there have been there have not arisen from the laws, nor from the interests, nor from the ambition of the metropolis, but from the men, the prejudices of the age, from the evils under which Spain herself groaned, and from the distance which always rendered null the responsibility of the Governors. But, in spite of this, America continued faithful, and closely united with the mother country; the dissensions in Europe, the war of the succession, produced no desire to disturb interior tranquillity, or to effect a separation; neither was the glorious war for independence a sufficient motive: they succored us with their treasures; and it has been said, in honor and to the glory of America, that the principle of her revolt had a noble origin, similar to what impelled Spain to defend herself against a hostile irruption. When Andalusia was invaded, in 1810, the greater part of our provinces were occupied by the enemy, our Government dispersed, and our armies nearly annihilated; the destiny of Spain was considered as decided, and her ruin inevitable. It would, indeed, have been difficult to imagine that, from an insulated extremity of the Peninsula, the nation would rise again not only independent, but regenerated and free. The Americans, mistrustful of their chiefs, feared that, being Europeans, they would desire to follow the destiny of Spain, whatever it might be; they, therefore, resolved not to submit to a foreign yoke, and preferred separating from the Peninsula to the indignity of obeying an unjust invader. This was the noble principle of the commotions in America; and, if any of her chiefs had motives less pure, he was obliged to dissemble, and cover them with the pretext of so just a cause.

The Spanish arms, in conjunction with their allies, having beaten and harassed the enemy in every direction, obliged him to evacuate the Peninsula. Such a happy state of affairs announced a speedy reconciliation with the revolted provinces of America; but all the hopes of those who loved their country were dispelled by the fatal decree of the 4th of May, and the execrable system which followed. The war continued to rage in many parts, and the passions, irritated to the highest degree, left but little prospect of a conclusion to such a destructive quarrel. Nevertheless, New Spain, or, more correctly, all Spanish North America, almost entirely quelled at that epoch, put a stop to this devastating warfare. A great part of Peru had constantly remained united to Spain; as also Cuba and the other islands. Thus, while Terra Firma, Buenos Ayres, and Chili,

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presented the spectacle of Spanish and American blood spilled by the same hands whose interest it was to preserve it, the most important part of Spanish America was free from so much desolation. But this tranquillity does not suffice, though it should extend all over America, and be more durable, it is not sufficient to satisfy the lovers of humanity. America must fix her happiness on a more stable basis, which, instead of prejudicing, may add to that of Europe. The Cortes, soaring above the prejudices of some and the passions of others, must take such wise measures as shall entitle them to be considered worthy rivals of those Cortes who, upon a rock, and under the enemy's cannon, dictated laws at this day respected and obeyed by so many and such distant provinces. The committee, fully persuaded of this, discussed, in various conferences, the questions which appeared to it most proper to produce the great end to which we all aspire; it examined them conjointly with His Majesty's Ministers, who at first entirely concurred with the opinions that were generally adopted. Peculiar circumstances have since obliged them, in some measure, to suspend their judgment, under the impression that public opinion is not yet prepared for a definitive resolution. In this dilemma the committee can propose nothing to the Cortes; because, as it appertains to the Government to decide the question of fact, that is, the convenience and necessity of adopting certain measures, and Government not thinking the moment has yet arrived, the committee must confine itself to excite the zeal of the Ministers, that they may accelerate the wished-for moment. Justice calls aloud for this: the precarious and uncertain destiny of so many Europeans, Spaniards established in those regions; the Americans likewise; the different tribes who have sustained by force of arms the cause of the metropolis; in fine, the true felicity of America and the Peninsula, call aloud for it. The happiness of America consists in a solid peace, guaranty of its future prosperity; that of Spain, in not meeting impediments at every moment, and not having its attention drawn off from its deliberations to make the provisions which such distant provinces require. The knowledge of the century, and an enlightened policy, must guide the Government in so new and glorious a resolution. The committee, possessed with the grandeur of the subject, and convinced that its decision may have some influence in the destiny of the universe, is desirous of communicating to all Spaniards its intimate conviction that they, on their part, may contribute to the happy termination of such an undertaking. Spain would derive advantages that otherwise she will not realize; and the ties of relationship and religion, united to commercial relations, and those which are derived from free institutions, would be the most certain pledge of our harmony and close union. The committee, therefore, not being able of itself to determine on any thing, must confine itself to proposing that the zeal of the Government be excited so that it may present to the deliberations of the Cortes, without delay, the fundamental measures it may think proper, as well for the speedy and complete

pacification of the revolted provinces of America, as to secure to them the fruition of a firm and solid felicity.

C.

ARTICLE 1. There shall be three sections of Cortes in America: one in the north, and two in the south. The first shall be composed of the deputies of all New Spain, including the internal provinces of Guatemala: the two other sections shall comprehend—the one, New Granada and the provinces of Terra Firma; the other, Peru, Buenos Ayres, and Chili.

2. These sections shall unite at the time appointed by the Constitution for the ordinary Cortes, governing themselves, in every respect, according to the rules prescribed for these; and they shall have in their territory the same legal representation and powers, excepting the second, third, fourth, fifth, and sixth, which are reserved for the General Cortes; the part of the seventh relative to approving offensive and defensive treaties; and the second part of the twenty-third.

3. The capitals where these sections shall for the present unite are the following: The section of New Spain in Mexico; that of New Granada and Terra Firma in Santa Fe; and that of Peru, Buenos Ayres, and Chili, in Lima. If the sections, with the consent of the executive power of those countries, should think proper to change the seat of Government, they may select whatever place may appear best suited to their purpose.

4. There shall be in each of these divisions a delegation, to exercise in the name of the King the executive authority.

5. These delegations shall each be composed of one person, named by the will of His Majesty, selected from amongst men of the most transcendent talents, without excluding the members of the royal family. This delegate shall be removable at the pleasure of His Majesty: he shall be inviolable in regard to the sections of Cortes of those countries, and shall only be responsible for his conduct to His Majesty and the General Cortes. The ministers of this delegation shall be responsible to the respective sections of the Cortes, according to the constitution.

6. There shall be four departments: of the interior, of finance, of justice, of war and marine; some of which may be united, according as it may be judged convenient, in virtue of a law.

7. There shall be three sections of the supreme tribunals of justice, composed of a president, eight ministers, and an attorney general.

8. There shall be three sections of the Council of State, each composed of seven individuals, but the legislative sections may at pleasure reduce their number to five.

9. The commerce between the Peninsula and America shall be considered as interior from one province of the monarchy to another; and, consequently, the Spaniards of both hemispheres shall enjoy in them the same advantages as their respective natives.

10. They shall likewise reciprocally enjoy the same civil rights and equal eligibility to employ-

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ments and public offices as their respective natives.

11. New Spain and the other countries comprehended in the territory of their legislative section oblige themselves to deliver to the Peninsula the sum of two hundred millions of reals in the space of six years, which shall commence on the 1st of January, 1823, in order to contribute to the payment of the foreign debt, hypothecating the revenue of the State, and the lands that appertain, or may hereafter appertain, to it, in the above-mentioned New Spain and indicated territory.

The said two hundred millions of reals shall be paid by instalments; the first at the commencement of January, 1823, and thus, successively, in six posterior years, until its final liquidation, which will take place on the 1st January, 1828, so that thirty millions may be paid during each of the first four years, and forty during the two last. The term of these instalments may be curtailed, with the approbation of the legislative section that shall be established in New Spain.

12. New Spain and the other territories comprehended in her legislative section likewise bind themselves to contribute to the navy expenses of the Peninsula, with forty millions of reals annually. The payment of this sum shall commence from the time when the legislative section shall first assemble, and shall be delivered at furthest at the expiration of a year from that period: this sum shall be augmented when the circumstances of New Spain shall permit, and delivered, along with the other, specified in the preceding article, in some one of the ports belonging to New Spain in the Gulf of Mexico.

13. The rest of the countries of America comprised in the other sections shall contribute to the Peninsula in the manner that shall be hereafter fixed upon, and according to their circumstances.

14. New Spain takes upon herself the payment of all the public debt contracted in her territory, by order of her agents in her name, and by her authority; the lands, revenues, and other property of the State, of whatever nature, without prejudice to what has been agreed upon in the eleventh article, shall be made over to her, to serve as an hypothecation of what has been stipulated in said article.

15. The deputies of the respective sections, at the time of taking the oath to observe, and cause to be observed, the constitution of the Spanish monarchy, shall add that of complying with and causing this law to be executed.

D.

HOUSE OF THE MARQUIS OF MOSS.

Street of the Infantas, July 9, 1821.

Jose R. Ravenga, one of the Plenipotentiaries of Colombia near His Catholic Majesty, has the honor to present his respects to Thomas Brent, Esq., Chargé d'Affaires of the United States of North America, and requests that he will be pleased to name an hour at which he can have a personal interview with him.

E.

MADRID, July 9, 1821.

Thomas L. L. Brent, Chargé d'Affaires of the United States, kisses the hand of Senor Don Jose R. Ravenga, Plenipotentiary of Colombia, and will be happy to receive him at his house at six o'clock this evening.

Manuel Torres, Agent and Chargé d'Affaires of the Republic of Colombia, in the United States, to John Quincy Adams, Esq., Secretary of State.

WASHINGTON, February 20, 1821.

SIR: The Republics of Venezuela and New Granada, which, after a devastating war of more than ten years, have victoriously achieved the independence which they had declared since the year 1811, were united by virtue of a fundamental law of the Sovereign Congress of Venezuela, of the 17th December, 1819, with the glorious title of the Republic of Colombia, under which it has taken its rank among other independent nations.

In consequence, I have received the order of my Government to communicate to you, sir, this resolution, worthy of Colombia, and to accompany it with the subjoined authenticated copy of the said fundamental law, in order that you may be pleased to lay it before the President of the United States.

I have also the honor to present to you, sir, the credentials of my public character, and a drawing of the national standard, which will henceforth distinguish Colombia among other sovereign and independent States.

Although the foundation of the Republic of these United States would completely justify the right of Colombia, yet, with respect to the custom which has been introduced among nations, the causes which have rendered this measure indispensable have been explained in the declaration of independence of Venezuela, of the 5th of July, 1811, a copy of which Don Telesforo de Orea, then Agent Extraordinary of that Republic, transmitted to your predecessor on the 6th of November of the same year: the other declaration of Venezuela, of the 2d of November, 1818, and the manifesto of the President of the Sovereign Congress of Colombia, of the 26th of August last, copies of which I sent you with my official letter of the 15th of last December, likewise mention them.

The conduct of Colombia being thus in all respects justified, no doubt my Government will be recognised by that of the United States as a free and independent nation, a sister Republic, situated likewise in the same hemisphere. It is also hoped that, to the recognition of the independence of Colombia on the part of the United States, treaties of commerce and navigation will be added, founded upon the bases of reciprocal utility and perfect equality, as the most efficacious means of strengthening and increasing the relations of amity between the two republics.

As you are already acquainted with the solicitude of Colombia, permit me, sir, to add that it is

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of the greatest importance to my Government to know the determination of the United States in regard to it.

I repeat, sir, the homage of the sentiments of high respect and distinguished consideration with which I have the honor to remain, your most obedient, humble servant,

MANUEL TORRES.

Charge d'Affaires, &c.

JOHN Q. ADAMS,
Secretary of State.

Fundamental law of the Sovereign Congress of Venezuela, of the 17th of December, 1819, for the union of the Republics of New Granada and Venezuela, under the title of the Republic of Colombia.

THE FUNDAMENTAL LAW OF THE REPUBLIC OF COLOMBIA.

The Sovereign Congress of Venezuela, to whose authority the people of New Granada, lately emancipated by the arms of the republic, have voluntarily submitted, considering—

1. That, by uniting the provinces of Venezuela and New Granada in one republic, they will have the means of attaining the highest degree of power and prosperity;

2. That if they should remain in separate republics, however great the bonds that might unite them, yet, far from benefiting by so many advantages, with difficulty would they consolidate their sovereignty, and cause it to be respected;

3. That these truths, clearly perceived by every man of sound understanding and genuine patriotism, had excited the Governments of both republics to agree to their confederation, which the vicissitudes of war have heretofore prevented;

From these considerations of necessity and reciprocal interest, and in conformity with the report of the select committee of the deputies from New Granada and Venezuela, *in the name and under the auspices of the Supreme Being*, has decreed, and does decree, the following fundamental law for the republic of Colombia:

ARTICLE 1. The republics of Venezuela and New Granada shall be from the present day united, under the glorious title of the *Republic of Colombia*.

2. Its territory shall be those comprehended in the former captain generalship of Venezuela, and the viceroyalty of the new kingdom of Granada, embracing an extent of one hundred and fifteen thousand square leagues, whereof the exact boundaries shall be fixed at a more seasonable opportunity.

3. The debts contracted by the two republics, separately, are acknowledged *in solidum* by this law, as a national debt of Colombia, for the discharge of which the goods and property of the State are pledged, and the most productive of the revenue shall be destined.

4. The executive power of the republic shall be exercised by a President, and, in his absence, by a Vice President, both to be appointed *pro tempore* by the present Congress.

5. The republic of Colombia shall be divided into three grand departments—Venezuela, Quito, and Cundinamarca, which shall comprehend the provinces of New Granada, whereof the name shall be henceforward suppressed. The capitals of these departments shall be the cities of Caracas, Quito, and Bogota, the addition of Santa Fe being omitted.

6. Each department shall have a superior administration, and chief magistrate, to be appointed for the present by this Congress, with the title of Vice President.

7. A new city, bearing the name of the Liberator, *Bolívar*, shall be the capital of the republic of Colombia. The plan and site thereof shall be determined by the first General Congress, upon the principle of making it suitable for the conveniences of the three departments, and proportioned to the grandeur for which this rich country is destined by nature.

8. The General Congress of Colombia shall assemble on the 1st day of January, 1821, in the town of Rosario de Cucuta, which, in every respect, is considered the most suitable place. The convocation shall be made by the President of the republic, on the 1st of January, 1820, who shall also communicate the plan for the elections, to be devised by a select committee, and approved by the present Congress.

9. The constitution of the republic of Colombia shall be formed by the General Congress, to whom shall be presented the projet of one already decreed, together with the laws enacted by this Congress, to be immediately carried into execution, by way of experiment.

10. The arms and flag of Colombia shall be decreed by the General Congress. In the mean time, those of Venezuela shall be employed, as they are known.

11. The present Congress shall dissolve on the 15th January, 1820, in order that the new elections may take place for the General Congress of Colombia.

12. A commission of six members, with a president, invested with special powers, to be decreed, shall occupy the place of Congress during its recess.

13. The republic of Colombia shall be solemnly proclaimed to the citizens and the armies with public feasts and rejoicings, to take place in this capital on the 25th December instant, commemorating the nativity of the *Saviour of mankind*, under whose protection the State has been regenerated by this reunion.

14. The anniversary of this political regeneration shall be perpetually celebrated by a national feast, where virtue and talents, as formerly at Olympia, shall be distinguished and regarded.

The present fundamental law for the republic of Colombia shall be promulgated in the settlements and armies, inserted in the public journals, and deposited in the archives of the cabildos, municipalities, and corporations, whether ecclesiastical or secular.

Given at the palace of the Sovereign Congress of Venezuela, in the city of St. Thomas of An-

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gostura, on the 17th day of December, A. D. 1819, and in the ninth year of our independence.

FRANCISCO ANTONIO ZEA,
President of Congress.

Juan German Roscio,	Diego B. Urbaneja,
Manuel Sedenó,	Juan V. Cardoso,
Juan Martínez,	Ignacio Muñoz,
Jose Espana,	Onofre Basalo,
Luis Tomas Peraza,	Domingo Alzurn,
Antonio M. Briceno,	Jose T. Machad,
Eusebio Afanador,	Ramon G. Cadiz.
Francisco Conde,	

DIEGO DE VALLENILLA,
Deputy Secretary.

DECREE.

Palace of Sovereign Congress of Venezuela,
AT ANGOSTURA, Dec. 17, 1819, (9th year.)

The Sovereign Congress decrees that the present fundamental law for the republic of Colombia shall be communicated to the supreme executive power by a deputation for its publication and execution.

FRANCISCO ANTONIO ZEA,
President of Congress.
DIEGO DE VALLENILLA,
Deputy Secretary.

PALACE OF THE GOV'T, AT ANGOSTURA,
(December 17, 1819, 9th year.)

Ordered to be printed, proclaimed, executed, and sealed with the seal of the State.

SIMON BOLIVAR.

By his Excellency, the President of the Republic:
DIEGO B. URBANEJA,
Minister of the Interior and of Justice.

A true copy: MANUEL TORRES.
WASHINGTON, Feb. 20, 1821, (11th year.)

REPUBLIC OF COLOMBIA.

ANGOSTURA, 1820.

JUAN GERMAN ROSCIO, Vice President of the Department of Venezuela, and charged with the Government of the Republic, on account of the absence of the President on the campaign, and of the Vice President on commission.

Whereas it is important to the prosperity of Colombia, and to the dignity of that station to which it has been elevated, to establish diplomatic intercourse with other nations, and to make treaties which may confirm its friendship with them, regulate its commerce, and protect mutual interests; and this Government being desirous of drawing more close the relations and bonds of union and good correspondence which already happily exist with that of the United States: Therefore, I have nominated, and, by these presents, do appoint and authorize Manuel Torres, Esq., that, in the rank and with the character of agent and Chargé des Affaires of the republic of Colombia, he present himself and treat with the said United States, and, conformably to the instructions which have been given him, to promote the interests and advantages of Colombia, by reconciling them with

those of said States, upon the principles of the most intimate, frank, and sincere friendship.

Given at the palace of Government, at Angostura; signed by my hand, sealed with the provisional seal of the republic, and countersigned by the Secretary of State and Foreign Relations, the 15th of May, 1820.

JUAN G. ROSCIO.

By his Excellency the Vice President of Venezuela, charged with the Government of Colombia.

JOSE R. RAVENGA,
Minister of State and Foreign Relations.

Don Manuel Torres to the Secretary of State.

PHILADELPHIA, November 30, 1821.

SIR: Since I had the honor of addressing to you my official note of the 20th of February last, requesting of the President of the United States the formal acknowledgment of the independence of the republic of Colombia as a free, sovereign, and independent State, new successes have taken place, which, at the same time that they remove any well-founded obstacle which might at that time have been in the way of the Government of the United States to prevent their acceding to the wish of that republic, render now the said measure more urgent, and I might say indispensable, in consequence of the recent events in Peru and New Spain, and the conduct of the Spanish Government towards America, always unjust, and always capricious.

In compliance with the orders which I have received from the Minister of Foreign Relations, of date the 3d of August, in Cucuta, I hasten to communicate to you, sir, what has occurred in Colombia since the recommencement of hostilities with Spain, and to inform you of the real actual state of the republic, that you may be pleased to lay it before the President of the United States.

In conformity with the fundamental law of the 17th of December, 1819, the solemn act of the installation of the General Congress of the republic of Colombia, composed of representatives named by the people of the nineteen free provinces of New Granada and Venezuela, took place on the 6th of May last in the city of Rosario de Cucuta, as is shown by the official document No. 1, which I have the honor to enclose to you.

The General Congress being installed, one of the first measures which called the attention of the legislative body was the great question of the fundamental law; and, after long and elaborate debates, in which each member expressed his opinion with the greatest freedom, the union of New Granada and Venezuela into one body as a nation, under the express agreement of a popular representative Government, divided into legislative, executive, and judicial authorities, was adopted and sanctioned by a plurality of votes; and also the division of the territory of the republic into departments or circles, according to the evidence in No. 2.

The document numbered 3 is the manifesto which, on the 6th of June, the President of Congress addressed to the people and armies of the

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Republic, notifying them of so important a measure; and No. 4 contains the fundamental law.

Whilst the Congress was engaged with patriotic spirit in discussing and making laws conducive to the correct administration of justice, to the regulation and management of the revenues, and to the promotion of public instruction in all the provinces and places of the State, the attention of the Liberator President was engaged in conducting an active war against the enemy, to expel them entirely from the territory of the Republic. The arms of Colombia experienced once more the aid of a beneficent Providence, and they accomplished, at one blow, the entire destruction of the Spanish power in Venezuela, in the memorable battle of Carabobo, on the 24th of June.

The enemy lost their park of artillery, their baggage, their all, in their very intrenchments; and of more than six thousand men, who were assembled at that military point, scarcely could a small number escape, who were able to retire within the walls of Porto Cabello.

The formidable fortress of Carthagena, and that of Cumana, also fell successively; so that Porto Cabello, in Venezuela, and the isthmus of Panama, in New Granada, are the only two points which the Spaniards for the moment occupy in all the vast territory of Colombia; and probably before the termination of the present year both will be incorporated with the Republic.

Although the isthmus of Panama, from its scanty population, its absolute want of agriculture, and its situation, can contribute little or nothing to the increase or facility of the interior or exterior commerce of the new Republic, still its occupation is of great importance to Colombia, under the view of its own future security and that of the rest of America, and from the great facility which the river Chagres affords for the commerce of Peru, and that of the provinces of New Spain which lie along the Pacific, since the distances, the dangers, and expenses of a navigation by Cape Horn are considerably diminished.

But it was not enough for the Liberator President to annihilate the formidable legions with which the Spaniards oppressed the country; it was also necessary to preserve good understanding and harmony among the inhabitants of Colombia, and to maintain among foreign nations the respect and reputation of the authorities of the Republic which the agents of Ferdinand VII. have constantly defamed, by circulating, through the medium of the press, the most infamous falsehoods against them. He had no other means of realizing his object but exposing to the impartial world the perfidious conduct which the Peninsular Government had incessantly observed towards the Americans; and, to the incontrovertible manner in which he did so, by the proclamation which he addressed to the Spaniards on the 25th of April, from the city of Barinas, is partly due the success of the Republican arms in Colombia and in Peru.

The inhabitants of Colombia, after eleven years of war, as unjust, as cruel, and destructive, guided by the genius of their Liberator President, have achieved the liberty and independence of their

country without the least foreign aid; have given themselves a popular and representative Government, and a constitution well calculated to preserve the principles of liberty and equality, and to promote the general prosperity.

With respect to the ability and capacity of Colombia to maintain its independence, no well-founded doubt can arise upon that point, if we consider on one hand the great population of the Republic, which exceeds 3,600,000 souls, the extent of its territory, its natural and artificial resources, and its situation; and, on the other, the great military talent displayed by its generals and officers, and the discipline and valor manifested by its troops on all occasions, but particularly in the celebrated battles of Boyaca and Carabobo, in the capture of St. Martha, defended by seventeen exterior batteries, all taken by assault, and the reduction of the fortresses of Carthagena and Cumana.

Some idea may be also formed of the degree of splendor, power, and future prosperity of the new republic, by considering it placed in the centre of the universe, with an extent of coast of twelve hundred miles on the Atlantic, from the Oronoco to the isthmus of Darien, and of seven hundred miles on the Pacific ocean, from Panama to Bahia de Tumbez, and exempt, at all seasons, from any of those dreadful hurricanes which cause such disasters in the Antilles, in the Gulf of Mexico, and in other places.

The great canals which are formed by the river Oronoco and its tributary streams, the Sulia, with the Lake of Maracaibo, the Magdalena, the Cauca, and the Atrato, which all empty into the Atlantic, render Colombia the most favored part of the universe for interior navigation; and, by a union of all climates, unite also, in great abundance, the productions of the three kingdoms of nature.

Agriculture is further advanced in Colombia than in any other part of continental America, formerly Spanish; and its products of exportation, which consist chiefly of cocoa, coffee, indigo, tobacco of Barinas, and some cotton, are of a quality superior to those of other countries, except the cotton. With respect to the precious metals Colombia is inferior to neither Mexico nor Peru, with the advantage that their discovery is more easy and less expensive. She also unites, by prolonged canals, two oceans which nature had separated; and, by her proximity to the United States and to Europe, appears to have been destined by the author of nature as the centre and the empire of the human family.

Under these auspices it was that the new republic took her rank among other free, sovereign, and independent nations, and that I had the honor, in my note to you, sir, of the 20th February last, to solicit the recognition of her independence on the part of the President of the United States; which request I repeat anew in this.

The glory and the satisfaction of being the first to recognise the independence of a new republic in the South of this continent belongs, in all respects and considerations, to the Government of the United States; and this recognition would be,

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after all, but a measure which the humanity, the justice, and the convenience and interest of this nation demand.

Reduced as Spain is to an absolute inability to continue the war, her pride wishes an opening, perhaps, to meet with a pretext for making her peace with the Americans, and nothing would better answer her purpose than the recognition of the independence of Colombia by the Federal Government.

On the other hand, if the war between Spain and Colombia must continue, the law of neutrality of the United States would operate with equality with respect to both belligerents, which was not and cannot be the case whilst this Government does not recognise the independence of the new republic. Lastly, between the United States and Colombia there can never exist a competition or rivalry in agriculture, commerce, and navigation, because Colombia has no mercantile navy, nor can she form one for many years, and the products of exportation of her agriculture are entirely different from those which are cultivated in the United States. She wants annually twenty thousand barrels of flour, and other provisions from these States, for which she pays in coffee, indigo, hides in the hair, and in money, according as the intercourse between the two countries is favorable to the agriculture of both.

The political events in Peru and Mexico render the recognition of the independence of Colombia urgent, on account of the great confidence with which this act would inspire those nations to establish popular representative Governments. All South America formerly Spanish is emancipated—that is, upwards of eleven millions of souls; this has given a new importance to the new world, and now they are no more afraid of the machinations of the Holy Alliance to keep America dependant upon Europe, and to prevent the establishment of free Governments.

The present political state of New Spain requires the most earnest attention of the Government of the United States. There has occurred a project, long since formed, to establish a monarchy in Mexico, on purpose to favor the views of the Holy Alliance in the new world. This is a new reason which ought to determine the President of the United States no longer to delay a measure which will naturally establish an American alliance, capable of counteracting the projects of the European Powers, and of protecting our republican institutions. My Government has entire confidence in the prudence of the President, in his disposition to favor the cause of the liberty and of the independence of South America, and his great experience in the management of public business.

Confined for about three months past to my bed or my chamber by a grievous indisposition, which still gives me very few moments of repose, it has not been in my power to address this communication to you sooner.

I have the honor to remain, with the highest respect and distinguished consideration, sir, your most obedient, humble servant.

Don Manuel Torres to the Secretary of State.

PHILADELPHIA, December 30, 1821.

SIR: The General Congress of the Republic of Colombia, in the session of the 6th of September, appointed the Liberator and Captain General, Simon Bolivar, President of the State, and General Francisco de Paula Santander, Vice President, for the constitutional term of four years; and on the 3d of October they took possession of their respective magistracies, after having taken the oath prescribed by the Constitution.

The functions of the executive power devolved, from the 10th of said October, on the Vice President of the State, agreeably to the 158th article of the Constitution, in consequence of the Liberator President having taken the command of the armies of the Republic.

The Supreme Government has fixed its residence in the city of Bogota, in virtue of a decree of the General Congress of the 8th of October; and, by another decree of the Liberator President of the 7th, the Senor Pedro Gaul has been appointed Secretary of State and Foreign Relations of the Government of Colombia.

I communicate this to you, sir, that you may be pleased to communicate it to the President of the United States.

I renew to you, sir, the sentiments of respect and distinguished consideration with which I have the honor to remain, &c.

MANUEL TORRES.

Don Manuel Torres to the Secretary of State.

PHILADELPHIA, Jan. 2, 1822.

SIR: In the official note which I addressed to you on the 20th of February of the last year, soliciting the recognition of the republic of Colombia on the part of the President of the United States, I represented how important it was to my Government to know the determination of the United States respecting the said demand.

In that which I had the honor to transmit to you, dated the 30th of November last, I repeated the substance of that of the 20th of February, and I suggested some additional powerful reasons which urgently required the positive knowledge of the decision of the President of the United States in regard to a question of so much importance to my Government in the present circumstances, for the regulation of its political and commercial relations with other nations.

I ought not to conceal, sir, my pain in being compelled to distract your attention by requesting once more an answer to my former notes. This course, under all circumstances an indispensable duty of my station, has been rendered the more urgent by the negotiations of peace between Colombia and Spain having lost all their importance in consequence of the Peninsular Government tenaciously persisting in its extravagant and unjust pretensions, at the very time of its most absolute incapacity and impotence to invade the territory of the republic, or to prevent the prosperity which its inhabitants now begin to enjoy—a blessing of

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the independence which they have gained by their arms, and of the liberty which their Constitution secures to them.

The present state of my health does not yet permit me to visit the capital; but I shall do so as soon as I can undertake the journey without inconvenience.

Be pleased, sir, to accept the homage of the sentiments of esteem and distinguished consideration with which I have the honor to be, &c.

MANUEL TORRES.

The Secretary of State to Don Manuel Torres.

DEPARTMENT OF STATE,
Washington, Jan. 18, 1822.

SIR: In reference to your letters of the 30th of November last and the 2d of this month, I have the honor of informing you that the subject to which they relate is under the consideration of the President of the United States, whose definitive decision concerning it shall, when taken, be forthwith communicated to you. In the mean time, should you receive advices of the surrender of Porto Cabello and the isthmus of Panama, I have to request you would favor me with the information of those events as early as may suit your convenience.

I pray you, sir, to accept, &c.

JOHN Q. ADAMS.

To the Secretary of State of the U. States of America.
MEXICO, October 25, 1821.

SIR: The love of my country, the spring of every noble and generous action, induces me to communicate to you, for the information of the President, and for the benefit that may result to the Government and citizens of the United States, the following circumstantial and exact account of this kingdom of New Spain, which, by the blessing of God, the intrepidity, talents, and exertions of its patriotic chief, General Don Augustin Iturbide, the enlightened policy of its mother country, and the liberal and philanthropic ideas of its late Captain General, Don Juan O'Donoju, has ended in its complete and entire emancipation.

That you may have a clear and distinct view of the subject, be fully impressed with the justice of the cause of this hitherto afflicted and oppressed people, and have also a general idea of the face of the country, its inhabitants, productions, &c., it may not be improper to state that, since its conquest, (which, if my memory serves me, was in the year 1521,) it has been governed by sixty-two viceroys, and innumerable commandant generals, governors, and superintendents of provinces, who, according to general tradition, have been, with very few exceptions, as many merciless and mercenary tyrants, the rapacity and unfeeling barbarity of whom nothing could have withstood for such a length of time but a land enriched by the bountiful hand of nature to a most extraordinary degree, and a people born and brought up, until of late, in all the intolerance of superstition and ig-

norance, and accustomed from their earliest infancy to the innumerable, and I may say almost incredible impositions of both Church and State.

Few foreigners have, perhaps, had an opportunity of seeing as much of the kingdom as myself, having travelled on horseback from the port of Guaymas, on the Gulf of California, to almost every part of Sonora, and afterwards through the provinces and superintendencies of New Biscay, New Galicia, San Luis Potosi, Queretaro, and Mexico, to this city, a distance at least of seven hundred leagues, passing through all the principal cities, visiting the most celebrated mines, and conversing familiarly with all classes of people.

The provinces of Puebla, Mexico, Mechoacan, San Luis Potosi, and Guanajuato, may be termed the central ones, and, of those I have seen, the best watered, most fertile, most productive, and most inhabited; those that border on the Gulf of Mexico are Merida de Yucatan, Oaxaca, Vera Cruz, New Santandero, and Texas; the second, from all accounts, beautiful in the extreme; and the third and last very fertile, but almost entirely uncultivated: those on the Pacific ocean and Gulf of California, New Galicia, Sinaloa, and Sonora, fertile in parts, but very scant of water; and the extensive internal ones of New Leon, New Biscay, and New Mexico, that reach to the latitude of forty-two degrees north, which have for the most part the same defect, and which may be called a general one throughout the kingdom, there being in most parts but little rain, and in no part, excepting Texas, what we would call rivers. Where there is an abundance of water, however, the country is wonderfully fertile, producing in many parts two or three crops a year, and yielding each time four and five hundred for one, with the singular advantage of a diversity of temperature within very short distances, produced by the greater or less elevation of the lands, the centre of the kingdom being from eight to twelve thousand feet above the level of the sea; so that it is not uncommon to see in the same market all the fruits, grains, and other productions of temperate, hot, and cold climates, as is the case in this, and most of the principal cities.

Before the insurrection of the year 1810, the kingdom contained six millions of inhabitants; and it is worthy of remark, that Providence has been no less lavish in the distribution of her gifts as respects mankind, than in the fertility and production of the earth; the natives of this country, not excepting even the Indians, being endowed with a quickness of perception and ability to acquire and make themselves masters of the arts and sciences that is very notable, and far exceeds that of the inhabitants of Old Spain, and perhaps many other countries. At the abovementioned period, the kingdom may be said to have been at its acme of prosperity; the royal revenue exceeding \$20,000,000, and the money coined at the Mint of this city upwards of \$28,000,000 annually; it has, however, ever since been on the decline, in consequence of the devastations committed by both parties in the long and cruel war carried on between the Europeans and Americans, so that the popu-

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lation cannot now be computed at more than four millions, the revenue at more than half of what it was, and the money coined yearly at from 5,000,000 to \$8,000,000; this year it will probably not exceed \$4,000,000.

I have been informed that a very correct history of this insurrection, up to the unfortunate expedition of General Mina, has been written by a Mr. Robinson, and published in Philadelphia; it is useless, therefore, to say more on the subject than that its commencement was undoubtedly caused by the abuses daily committed in all branches of the Government in this kingdom, by the disorder in which Spain was thrown in consequence of the invasion of the French, and by the imprudent measures adopted in this city, one of which was the arrest of the Viceroy Iturigaray, and many of its principal American inhabitants. It is also worthy of remark that, in proportion as it was prolonged, the evils increased, and its symptoms became more malignant; the various incidents of the struggle, imbruing its character with blood, produced other passions, and among them those of rancor and hatred, which, irritated and inflamed by the inconsideration, imprudence, and want of policy on both sides, divided the kingdom into two parties, the Europeans and Americans, whose respective opinions formed essentially the war that destroyed both.

Among those that contributed most to quell the insurrection was the before-mentioned General Don Augustin Iturbide, then colonel of the regiment of Celaya, and native of the city of Valladolid, in the province of Mechoacan. Born of European parents, and animated by a mistaken zeal, he was induced to embrace the royal cause, and, with a fervor and impetuosity peculiar to his character, committed many arbitrary and violent acts, that in a great degree tarnished what would otherwise have been deemed brilliant achievements, and over which it is necessary to draw a veil, his subsequent conduct having entirely effaced them from the memory even of those most aggrieved. Indeed, it would appear that a sense of the injustice he had committed, an innate conviction of the impropriety of adhering to the party he had espoused, and a remorse of conscience, were the principal causes of the change in his political sentiments; for we see him all at once assuming a different character, and at a moment when his sovereign had heaped upon him innumerable honors.

The impossibility of re-establishing peace and quietness in the kingdom by the force of arms was fully ascertained during the Viceroyalty of the Captain Generals Venegas and Calleja, of whom it may be said that they rather dispersed than conquered the Americans, the country being in a complete state of revolt, and full of chieftains that commanded from three to six hundred, and even a thousand men each, and bands of robbers that infested the highways in September, 1816, when the Viceroy Apodaca arrived. To this disinterested, good, and virtuous man is due the pacification of the kingdom; his penetration, skill, and humanity having suggested to him the propriety

of laying aside the arms that had hitherto been in use, and of winning the affections of the people by means of persuasion, pardons, and premiums, who, without general officers, money, or any immediate expectation of establishing the liberty of their country, and weary of the wandering and wretched life they had so long endured, embraced readily the opportunity that presented of returning to the bosoms of their families. No sooner was the plan adopted than its wisdom became palpable; entire towns and districts yielding to the solicitations of the agents appointed by the Government for carrying it into execution, so that at the end of two years all was tranquillity, and you could travel in every direction without escort of arms, except that of Acapulco, between which and this city the chieftains Guerrero, Asensio, and a Colonel Bradburn, of Virginia, that came with General Mina, with about fifteen hundred men, had taken refuge, and fortified an almost inaccessible mountain, from whence they made predatory excursions. To reduce these to obedience was the ultimate object and wish of the Government; and, with this view, General Iturbide was invested with the important military command of the department of the South, that contained about three thousand veteran troops, and had its headquarters in the town of Iguala, distant about thirty leagues from this city, on the direct road to Acapulco. It is proper to mention here that, a few months previous to his nomination, news had been received of the regeneration of Old Spain, and of the establishment of the Constitution in that country—a circumstance that created great alarm in this among the clergy and friars; the lower class of people were also taught to believe that the planting of it here would be attended with the entire destruction of their long-established form of religion.

The Viceroy, (Apodaca,) who was now graced with the title of "Conde del Venadito," was also opposed to the new system, and discovered so much reluctance in the change of his measures, that his unwillingness and tardy mode of proceeding became evident to all, and gave occasion to many just and violent complaints that were made by its admirers, who publicly accused him of its infraction; while the American writers, taking advantage of the liberty of the press, and the confused and unsettled state of public opinion, called aloud for independence as the only certain remedy for the numerous evils that surrounded them.

The crisis was too important and obvious to escape the penetration of our hero, Iturbide, who was also instigated to an immediate execution of the plan he had, in consequence, formed, of liberating his country forever from its thralldom, by the mutiny of several of the officers of the regiment of the "four military orders," that had before given many unequivocal proofs of disaffection and insubordination, which was supposed to extend to the soldiers of that corps, and by the departure of a convoy for Acapulco with near a million of dollars, that was intended to be embarked in a ship bound to Manilla, that he resolved on detaining.

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He immediately, therefore, concerted his measures with the clergy and friars, and, with the specious pretext of upholding them in their privileges and immunities, secured their favor and protection. He also communicated his design to such of the Governors of the provinces as he thought likely to aid him in the execution of it, and, on his arrival in Iguala, persuaded a great part of the troops under his command to join him in the undertaking, in the belief that the Government secretly favored it—a circumstance that they at first readily gave credit to, from their knowledge of the anti-constitutional sentiments of its leading members, but in which they were soon after undeceived, and, in consequence, not more than a thousand remained faithful of those that espoused his party. The design was also made known to Guerrero, Asensio, and Bradburn, who pledged themselves to support him in the enterprise; and, thus prepared, he openly declared the independence of the kingdom, swearing it in the most solemn manner at the head of his army, in the said town of Iguala, on the 24th day of February last, seizing, at the same time, and appropriating to the use of the nation, the treasure destined for the Manila ship.

His next step was to form a plan for the installation of the new Government, (a copy of which I enclose,) and to give to his army the style and title of the “army of the three guarantees,” from the protection it was to afford to the Catholic religion, to the independence of the kingdom, and to the indissoluble union between the Europeans and Americans. A copy of the plan was immediately sent by him to the Viceroy, with a letter, stating all that had passed, explaining his motives for having formed and adopted the new system; inviting him and the Government to aid and assist in its establishment; and, finally, naming the said Viceroy, the “Conde de Cortina,” and the president of the royal audience, the members that were to compose the regency, reserving to himself the command that he had assumed of the National Army.

The Viceroy, had he been left to himself, would, I believe, have assented to the proposal, from the vehement desire he has ever manifested to avoid the effusion of blood, and the miseries concomitant to a renewal of the war, as well as from a conviction that the plan and policy adopted by Iturbide could not fail to gain him innumerable friends, and to enable him, finally, to accomplish his views. It was necessary, however, to call to his counsel the members of the various tribunals of which the Government was composed, as well as the principal military officers, all of whom, counting on the versatility that had been conspicuous in the American character up to that period, resolved, unanimously, to maintain the then existing Government, in the belief that the few troops that had adhered to Iturbide would leave him the instant the royal army should approach Iguala.

The old favorite system of blood and murder was also upheld; but to this the Viceroy would not consent, and an amnesty was offered to all, not excepting Iturbide. The Field Marshal Linan

was named commander-in-chief, and a numerous staff and army was committed to his charge. He was, however, so slow in his motions, that a detachment of troops sent by Iturbide had taken possession of the town and castle of Acapulco, and he himself, and the remainder, were on their march in the direction of Valladolid before the army of Linan moved from its cantonment in the neighborhood of this city.

The cry of independence was no sooner raised in Iguala than it spread in all parts, and an army was formed in the Provinces of Puebla and Vera Cruz, by the Colonels Herrera, Bravo, and Santa Ana, that took possession of the cities of Orizaba, Cordova, and Xalapa; which was the most important conquest, the two former being the depots of the Government tobacco, of which a prodigious quantity fell into the hands of the Independents, with a large sum in specie—circumstances that were attended with the double advantage of being a powerful succor to them, and an irreparable loss to the Government, which counted on the remission to, and sale of, the tobacco in Mexico as its principal means of supporting the war.

In this state of things, it was resolved to divide the Government army into three divisions: one of which, under the command of Colonel Margues, was to retake Acapulco; another, commanded by Colonel Hebia, to march against the cities of Orizaba, Cordova, and Xalapa; and the third to return for the defence of this capital, on the supposition that Iturbide might suddenly change his route, and take the city by surprise. It, however, soon appeared that his intention was very different, and that his object was to pass Valladolid, and unite with a Colonel Bustamente, of San Luis Potosi, who had risen at this critical period, and proceeded against the city of Guanajuato with a considerable part of his regiment of dragoons, declaring independence in all the cities and towns in the Bajío, the inhabitants of which received him with open arms. On arriving at Guanajuato, it also surrendered to him; and, as he was joined by the garrisons of the several places he passed through, Iturbide, on meeting him, found himself at the head of an army of five thousand men, including the divisions of Colonel Barragan and Major Parres, that left Valladolid with what troops they could seduce, as soon as they knew of his intention to pass that way. With this respectable force it was determined to attack that city, which was the best fortified of any in the kingdom, and had a garrison of seventeen hundred men. It however made no defence, and its commandant, Colonel Quintanar, and all but about six hundred of the troops, went over to Iturbide.

At Guanajuato, where is one of the richest minerals in the kingdom, a mint was established, that proved afterwards very serviceable to the Independents, and injurious to the royal party; the silver from all the neighboring mines taking the direction of that city instead of Mexico.

Acapulco remained but a short time in possession of the Independents, the castle having capitulated before the arrival of the division of Colonel Margues to two Spanish frigates that accidentally

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arrived there from Panama. San Juan del Rio, a fortified town between this city and Queretaro, was next invested; the siege, however, lasted but a few days; the greater part of the garrison, being Americans, deserted, and joined the Independents, obliging the few that remained to capitulate.

The division of Colonel Hebia that had marched, as before stated, against the cities of Orizaba, Cordova, and Xalapa, surprised Colonel Bravo, with about fifteen hundred Independents, in the town of Tepeaca, about nine leagues from Puebla, who, unprepared for action, retired with his troops to a large convent of the order of San Francisco, that was constructed by Hernando Cortez, soon after the conquest, in the form of a fortress, to serve as a place of refuge for him and his followers in the event of any sudden emergency. Hebia had with him his own regiment of "Castile," and other European troops, that equalled in number those of Bravo. A field-piece was, however, necessary to make a breach in the wall of the convent, and, to obtain this, he sent immediately to Puebla, asking, at the same time, for a reinforcement of five hundred men, that the success of the action might be placed beyond all doubt. Bravo, suspecting his intention, resolved on a sortie, with the determination to cut his way and escape, as Iturbide had given positive orders to all his officers to avoid the effusion of blood, and to act solely on the defensive, from the double motive of conciliating the enemy and avoiding the butchery of his countrymen; sensible where one European should be killed, four or five Americans would fall, the number of the latter in the King's service exceeding greatly that of the former. In the first and second attempts he made, he was unsuccessful; the third, however, proved more fortunate, and he got off with the loss of fifty or sixty men, killing as many of those that were opposed to him.

This was the first action that had occurred, and the result proved highly important to the Independent cause; the gallant conduct of their troops inspiring a universal confidence, animating their companions in arms throughout the kingdom to a singular and unexpected degree, and demonstrating to the political and military officers of the Government of Mexico that they had to contend with a brave and determined enemy.

Disappointed and chagrined at the result of the action, and undeceived as to the sort of troops he had to deal with, Hebia proceeded on his march to Cordova, where he was killed in the first assault, and his army obliged to retire from the siege by Colonel Herrera, and the valiant troops that defended the city. While these scenes of glory were achieving in the provinces of Puebla and Vera Cruz, the siege of the city of Queretaro, one of the most beautiful in the kingdom, and the third in rank as respects size, opulence, and commerce, was pushed with much vigor by Iturbide in person. Its garrison was composed of nine hundred Europeans, draughted from various regiments, and about six hundred Americans, all under the command of Brigadier General Loaces, a native of the kingdom of Peru, colonel of the regiment of Saragossa, and a brave and expe-

rienced officer. He had determined to make a vigorous and desperate defence; and, as the fate of the kingdom depended in a great measure on that of this city, the Government resolved to abandon that of San Luis Potosi, and to succor Queretaro with the European regiment of Zamora that was stationed there. The order to this effect was no sooner despatched than Iturbide knew of it, and concerted measures to surprise the troops on their march, which were so well executed that they found themselves surrounded when they least expected it by a body of three times their number, and compelled to surrender at discretion. This happy occurrence for the Independents was a deathblow to the Government, who found itself at once deprived of the important capital and province of San Luis Potosi, that were immediately occupied by the Independents, and without the means of contributing to the relief of Queretaro, which capitulated shortly after; the American part of the garrison joining Iturbide, as usual, and the Europeans going on parole to Celaya, until such time as they could be transported to the Havana. These troops, to their eternal disgrace, proposed afterwards to their colonel to rise and march to Mexico; but he, like a man of honor, sent the letter to Iturbide, who immediately ordered them to be disarmed and dispersed.

The next action of any importance was in the neighborhood of Toluca, fourteen leagues from the city, between the regiment of Fernando VII., commanded by Colonel Castillo, and a body of the Independents of an equal number, under the orders of Colonel Filisola, which was indecisive, both parties claiming the victory, after an obstinate battle, in which more than two hundred were left dead on the field, and the Independents in possession of two cannon, that their opponents were obliged to abandon.

At this period, General Negrete, commander of the troops in the province of Guadalajara, rose with the whole of his army, obliged the commandant, General Don Jose de la Cruz, to fly from the capital of that name, where, and in all other parts of the province, independence was sworn; the commerce of the port of San Blas was also declared free to all nations. Cruz took the road leading to the internal provinces, with the intention, it was said, of uniting with Brigadier Don Joaquin Arredondo, commandant general of the eastern provinces, of raising an army in union with him, and of returning, either to reconquer his own province, or to the aid of that of Mexico. Arredondo had, however, already caused independence to be sworn throughout his district, and, on hearing this, Cruz made a halt in the city of Zacatecas, but, being pursued by Negrete, fled to Durango, the capital of the province of New Biscay, carrying with him a large sum in specie that he found in the treasury at Zacatecas, which city soon after surrendered to a detachment that was sent against it by the commandant of San Luis Potosi.

On the death of Hebia, the command of the regiment of Castile devolved on Lieutenant Colonel Luna, who, on the fall of Queretaro, was

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ordered to return to Mexico by forced marches, in the expectation that Iturbide would now attack the capital. Similar orders were also sent to Colonel Margues, in whose division was a principal part of the insubordinate regiment of the "four military orders." The male inhabitants of Mexico, from the age of sixteen to fifty, were also ordered to enrol themselves in the militia, without exception or distinction of persons, and every possible precaution was taken to prevent a surprise and maintain the city until such time as an answer should be received to despatches that had been sent to Spain, or troops should arrive that were expected from the Havana.

All this, however, was not sufficient to allay the rancor that a certain part of the community had conceived against the Viceroy, nor to convince them of his upright intentions, or extinguish the sparks of insubordination I have already hinted at in some of the European troops, which, from the first, was more immediately directed at his person than at the Government. A report was, therefore, industriously circulated that he was in secret correspondence with Iturbide, and that there was no real intention to defend the city, notwithstanding the preparations that were ostensibly making for its protection; the whole a prelude to the scandalous revolution of the 5th of July, which had for its object the arrest of that most excellent man, and, without doubt, was accomplished by dint of money paid by the merchants to the officers that took part in the affray, who had the temerity to secure the persons of their colonels and other principal military men opposed to their project, to assault the palace and make a prisoner of the Viceroy, and afterwards the audacity to place against its gates and the corners of the principal streets, for the information of the public, who were so many witnesses of their atrocity, a paper setting forth that he had of his own accord, and at the respectful petition of the officers of the European regiments, delivered the political and military command of the kingdom to Field Marshal Don Francisco Novella, the person they had pitched upon as the leader of the faction.

This gentleman had under his command the various corps of artillery and engineers that existed in the kingdom; and as his education and occupation until now had been altogether confined to that line, you will readily imagine him entirely unfit for the discharge of the arduous and complicated duties of Viceroy of these extensive provinces.

Indeed, he himself was sensible of his incompetency, and very prudently declined the offer; as unsuitable, however, as he was, there was no other person they could avail themselves of that was less so, and the same necessity that compelled them to name him obliged him to accept the appointment. From a Government constituted by the insubordination of a few soldiers that had the vanity to compare their iniquitous conduct with the noble enthusiasm of the Spanish nation, which, tired of obeying tyrants that abused the goodness of their monarch, rose in a mass to recover the

rights of which they had unjustly been deprived, no good was to be expected; and we see it employed from its very commencement in destroying the constitutional regimen, of which it did not leave a vestige, and in substituting the most arbitrary and tyrannical system that it is possible to imagine; all of which was fomented and sanctioned by a body that Novella had created, with the denomination of the "Junta Consultiva," composed of a few individuals who had contributed with their money to place the power in his hands, were furious at seeing approach the expiration of their authority, and with sentiments diametrically opposed to the system of liberality and philanthropy at present predominant.

At the time these scenes of horror were transacting in the capital, and to which I myself had like to have been a victim, notwithstanding the great prudence I observed in my department, a bloody occurrence took place in Vera Cruz in consequence of the storming of that city by a party of troops commanded by an inconsiderate but brave young officer named Santa Ana, who scaled the walls and got complete possession of the town, but was afterwards obliged to retire with great loss, his soldiers having abandoned their arms with a view to plunder, and the inhabitants setting upon them when in that defenceless state.

The city of Puebla de los Angeles, the largest in the kingdom except Mexico, next attracted the attention of General Iturbide, in front of which was a large army of Independents composed of the divisions of the Conde de la Cadena, Herrera, Bravo, Filisola, and others, that only awaited the orders of their General to make the attack, and to prevent which, and the loss of many valuable lives, he went in person, preferring, in all cases, the plan he had from the first adopted of reducing his enemies by means of persuasion and negotiation rather than by force of arms. The fate of Puebla was all-important to the Government in the critical situation in which it found itself, being one of the chain of fortified towns that connect Mexico with Vera Cruz, to which port it had resolved to retire with the European part of the army and inhabitants, in the event of not being able to sustain itself in the capital. Puebla was, therefore, well garrisoned, served with an excellent park of artillery, and defended with many cannon of a large calibre, so that its commander-in-chief, Brigadier Don Ciriaco Llano, the Marquis de Vivanco, and other experienced officers stationed there, had, until the last, sanguine hopes of being able to defend it. Iturbide, however, called to his assistance a part of the army he had left in Queretaro, and surrounded the city with so many troops that resistance would have been nothing short of an act of madness; it therefore capitulated.

On the surrender of Puebla, the army of Iturbide, which had now augmented to the number of about eighteen thousand, and which was composed entirely of veteran troops that had been disciplined in the King's service, and had gone over to him clandestinely, or joined him on the fall of the various cities he had conquered, re-

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ceived orders to march in separate columns to different towns in the neighborhood of Mexico, with the intention of manifesting to the Government of that city the folly of any further resistance. It was, however, entirely in vain that the General had adopted this prudent measure; in vain that one or two praiseworthy citizens had ventured to reason on the subject with Senor Novella; and in vain that he was assured he could not rely on more than one-third part of the troops that composed the garrison. War! war! was the cry of him and his Junta Consultiva, and the motto they wore on their hats, and that worn by all their officers and troops, was, "*Vivir y morir fieles y utiles.*"

Iturbide, after having rested a few days in Puebla, and partaken of the effusion of gratitude manifested towards him by the good people of that city, was on the point of leaving it, with the intention of fixing his headquarters near the town of Chalco, and directing from thence the attack that was to have been made on Mexico, when he received a letter from Lieutenant General Don Juan O'Donoju, who had recently arrived at Vera Cruz, informing him that he had been named by the King of Spain Captain General and political chief of the Kingdom, and had accepted the appointment at the solicitation of his friends, the representatives of America in the Cortes of Spain; that he had risked his health and life, and sacrificed his convenience, at a period when he intended to retire from the public service, without any other desire than that of acquiring the love and esteem of the people of New Spain, and without other sentiments than those of tranquillizing the disastrous inquietude that reigned in the kingdom—not by consolidating or perpetuating the despotism that existed, or prolonging the colonial dependence, or falling into the errors or imitating the defects of many of his predecessors in supporting a system of government, the tyranny and injustice of which arose from the barbarity of the age in which it was established, but by reforming the ideas of the misled, calming the passions of the exasperated, and pointing out to the people generally the mode of obtaining with security, and without the horrible sacrifice they were making, the happiness which the illustration of the era in which they lived had induced them to seek after, and which no rational person could disapprove. He also required Iturbide to appoint a place at which they could have an interview, and realize the sincere and ardent desire he had to prevent the evils and misfortunes inseparable to a state of hostility, until such time as the treaty they might conclude, founded on the basis of the plan published in Iguala, should be ratified by the King and Cortes.

What a blow was this to the existing Government of Mexico, and to those that preceded it since the year 1810! what a contrast to their iniquitous and shameful mode of proceeding! The wise and beneficent O'Donoju, reading the public papers of the Independents, applauding the enterprise of their hero Iturbide, confirming his ideas, commending his virtues, and desiring his friend-

ship, as he does in the conclusion of his letter; while the intrusive Novella and his Junta Consultiva, in imitation of their barbarous predecessors, Vanegas and Calleja, were persecuting with unrelenting fury, and almost to death itself, those that communicated with the Independents, or in whose possession should be found any of their seditious writings; proscribing the chiefs of the revolution, and heaping upon them every species of reproach and ignominy!

But the scene had changed; the star of liberty that rose in our own country had happily spread its influence in the more Eastern and Western hemispheres, and displayed to the world the criminal conduct of the Caligulas and Neros that had for such a length of time dishonored Spain and abused human nature.

This letter of O'Donoju, with another that he wrote to Senor Novella, was sent by Iturbide to the Mexican Government, accompanied with a proposal for the suspension of arms until such times as the definitive treaty should be signed in Cordova, the city named by Iturbide as the point of conference. Novella would, however, hear nothing of the sort, and the letters were declared spurious, notwithstanding that Senor Alcocer, a venerable curate of this city, who had been intimately acquainted with O'Donoju in Spain, proved to the Junta the identity of the signatures, by showing others that he had in his possession; which contumacy on the part of Novella exasperated Iturbide so much that he set off for Cordova, leaving orders with his Generals for the immediate occupation of the towns of Tacuba, Tacubaya, Azcapuzalco, and Guadalupe, neither of which was distant more than half a league from Mexico, and all of them in possession of the European troops.

This was an unexpected circumstance to Novella and the Junta, who had the folly and vanity to suppose they could frighten the Independents from the execution of their plan by means of the silly proclamations they almost daily issued, in which they affected to despise their number, challenged them openly to commence the attack, and declared the Generals Luaces and Llano traitors to their King and country for having surrendered the cities of Queretaro and Puebla. The heroes of Tepeaca, Cordova, and Toluca were, however, not so easily scared, and a column of fifteen hundred men sent by Colonel Bustamante against Azcapuzalco presented to the inhabitants of Mexico the sight of a most bloody and desperate action that took place between them and an equal number of the regiments of Castile and military orders that composed the garrison of Azcapuzalco, the result of which was at least six hundred killed and wounded, and the abandonment of the town by the Europeans. A few days after, an attempt was made to dislodge the Europeans that were stationed in Guadalupe, by means of cannon placed on a neighboring hill; and while this operation was carrying on by a part of the Independents, and others were taking possession of Tacuba and Tacubaya, from both of which towns the Europeans had retired, an aid-de-camp arrived with

a copy of the treaty of Cordova, concluded between General O'Donoju and Iturbide, and an order from the former to Sr. Novella, commanding him to obey him as Captain General of the kingdom, to cause him to be recognised as such by the troops, to cease all hostilities from the instant he should receive the order, and to adopt measures for the evacuation of the city. This peremptory mandate on one side, and near approach of the Independents on the other, placed Novella, the Junta, and their European troops in an awkward predicament; inasmuch as, if they obeyed the order, they would be subject to arrest and trial for the scandalous imprisonment of the late Viceroy; and if they refused compliance, to be treated as rebels against the King's authority; their object, therefore, was to shelter themselves from the punishment they had justly deserved in the best manner they could. And, with this view, although they were perfectly convinced of the presence of O'Donoju in the kingdom, and of the reality of the treaty signed in Cordova, they nevertheless affected to doubt the truth of one and the other, alleging that all might be a stratagem of Iturbide; and on this frivolous pretext refused to evacuate the city. On the deposition of the Conde del Venadito, the Junta Provincial Ayuntamiento, and other bodies corporate, hesitated to acknowledge the authority of Novella, but were obliged to do so eventually, from the fear of the bayonets he had at his command.

Now, however, that they were surrounded by the Independents, and backed by O'Donoju, they openly protested against his proceedings, and, in consequence, he was obliged to ask for an armistice, and compelled to send one of the Junta Consultiva to Puebla to ascertain, as he said, the identity of the Captain General. This envoy, who had hitherto been one of the most strenuous supporters of the measures of Novella, and one of the most active members of the Junta, received such a fright from the lecture O'Donoju gave him, that he immediately returned, explained fully to Novella all that had passed, and forever afterwards ceased to meddle in the matters at issue. Novella was also inclined to succumb, and would have renounced his employ, had it not been for fear of the troops; he having lost all authority, and they having usurped the command, so the city was in the utmost anarchy and confusion, and dreading at every instant a general massacre and pillage, with which it had been threatened daily for near a month, and which would most assuredly have succeeded had it not been for the proximity and number of the Independent army, that cut off all possibility of escape for the European troops, whose idea was to commit all sorts of enormity, rob what they could, and take the road for Vera Cruz.

Things had got to that pass that it was impossible to confide in a servant, and dangerous to do so in a friend; every thing like social intercourse was at an end; those that could with any sort of convenience leave the city, fled: and those that were obliged to remain, sought security in their houses; so that, in this once populous metropolis,

there was scarce a soul to be seen. In this state of things, the Generals O'Donoju and Iturbide arrived at Tacubaya, and the former had an interview with Sr. Novella, in the course of which he gave him to understand the impropriety of his conduct in resisting the legitimate authority as long as he did, the impossibility of defending the city, and the certainty of the massacre of the Europeans, should it be taken by assault; remonstrated with him respecting the insubordination of the troops, pointed out to him the illegality of their conduct, and enjoined him to prevent the effusion of blood, by exercising the little influence he had with the subaltern officers and soldiers, in the understanding that he would not take upon him to scrutinize their conduct in the arrest of the late Viceroy, but leave them to exculpate themselves in the best way they could on arriving in Spain. The following day news was received of the surrender of the city of Durango and General Cruz to General Negrete, after an obstinate resistance, in the course of which many lives were lost, and the declaration of independence in the western internal provinces, under the command of Field Marshal Alexo Garcia Conde; so that if the soldiers of Novella had before any hope, it now entirely disappeared, and, in order to avoid a disgraceful capitulation, were obliged to acknowledge the supremacy of General O'Donoju, obey his orders by evacuating the city, and march to that of Toluca, there to wait until it was convenient for them to embark.

To complete the independence of the kingdom, there was now wanting the declaration of the province of Merida de Yucatan, which followed almost immediately the surrender of Acapulco, the castle of Perote, and Vera Cruz; the two former of which capitulated soon after, and the latter has, without doubt, ere this followed their example, advice having been received yesterday by the Government that it was on the eve of surrendering. The province of Guatemala, which has always been a separate Viceroyalty from that of Mexico, was also sensible of the general impulse, and, desirous of becoming an integral part of the Mexican empire, has likewise sworn independence, which, without doubt, will extend to its neighboring provinces, Honduras, Nicaragua, Costa Rica, and Veragua, so that we may from this instant consider North America, with the exception of Canada, as divided into two grand and important commonwealths, that may, with the aid of those that are forming in South America, be able, in the course of time, to give the law to the opposite continent.

I am very far from believing myself possessed of the qualities necessary to treat with the energy and exactness that it merits a subject of the importance of that on which I have ventured to write, and certainly should not have had the temerity to have touched upon it, had it not been for the particular situation in which I found myself, an eye-witness of all that passed, and from the conviction I have ever been under, that each individual is bound to contribute towards the good of his country to the utmost of his ability,

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be it great or small. With this view, therefore, I shall, now that I have finished my narrative, take the liberty to add a few remarks, and to say, in the first place, that the revolution which I have attempted to describe is not one of those that have been accomplished by means of unbridled passions, cruelty, rancor, or revenge; but, on the contrary, has, from its commencement, been accompanied with brotherly love, patriotism, disinterestedness, truth, and good faith; so that the more I reflect on its origin and progress, the more is my admiration excited, and the more am I tempted to exclaim that America has produced two of the greatest heroes that ever existed—*Washington* and *Iturbide*. Secondly, that the new Government is established on a sure and solid foundation, the people being highly delighted with it, and the subordinate chiefs, officers, and soldiers having one and all implicitly followed the example of moderation set them by their magnanimous leader, who, to obviate strife, envy, and emulation, has absolutely refused the crown, and insisted that the Emperor shall come from Spain, as he first proposed in the town of Iguala. Indeed, the plan there published has been adhered to with the most religious scrupulosity, except the slight variations made in it by the Treaty of Cordova, at the suggestion of General O'Donoju; and the empire is, in consequence, now governed by a regency of five of its most distinguished and enlightened statesmen, who have elected General Iturbide, President, and appointed him commander-in-chief of the land and sea forces, and by a convention of thirty-six of the principal personages in the empire, as respects, talents, rank, and riches. The independence is to be sworn in this city on the 27th instant, and the Cortes are to meet on the 24th of February next, the anniversary of the declaration in Iguala. In the mean time, the convention will be employed in enacting the most salutary decrees; and among those already passed is one declaring the commerce of this empire free to all nations; another, doing away all the arbitrary taxes, impositions, and excises imposed by the former Government; a third, reducing the duties from sixteen to six per cent.; a fourth, for the encouragement of the miners, relinquishing to them the quota of silver formerly paid to the King, with other imposts that amounted to seventeen per cent.: so that many poor minerals that could not be worked before, can now be used to advantage; and a fifth, recognising and making the new Government responsible for the debt contracted by the old one, of thirty-six millions of dollars.

That there is a strong bias in the minds of the people of this country in favor of the Government and citizens of the United States in preference to all other nations, is beyond a doubt; and that the convention, of which four-fifths are native Americans, and the Regency, which is composed entirely of them, are actuated with the same sentiments, is also certain. On this subject I have had various conferences with the leading members of the Administration, whose sentiments will be fully explained to you shortly by Don Juan Manuel de Elizalde, the Minister Plenipotentiary that is al-

ready named, and now preparing to go to Washington, where I have no doubt he will be received and acknowledged as the representative of a free and independent nation; the Mexican empire being so at this time to all intents and purposes, in the first place, by the unanimous wish and consent, power and authority, of its inhabitants; and, secondly, by the treaty signed at Cordova, between the Generals O'Donoju and Iturbide, the deputed agents of Spain and this empire.

Your most obedient, humble servant,

JAMES SMITH WILCOCKS.

Treaties concluded in the city of Cordova, on the 24th instant, between the Senors D. Juan O'Donoju, Lieutenant General of the armies of Spain, and D. Augustin de Iturbide, First Chief of the Imperial Mexican Army of the Three Guarantees.

The independence of New upon Old Spain being declared, and it having an army capable of supporting this declaration, the provinces of the Kingdom being subdued by it, the capital, where the legitimate authority had been deposited, being besieged, and when there only remained for the European Government the fortresses of Vera Cruz and Acapulco, dismantled and without the means of resisting a siege well directed and which would last some time, Lieutenant General D. Juan O'Donoju arrived at the first port with the character and authority of Captain General and superior political chief of this Kingdom, appointed by His Catholic Majesty, who, being desirous of avoiding the evils which afflict the people in vicissitudes of this sort, and trying to conciliate the interests of both Spains, invited the first chief of the imperial army, D. Augustin de Iturbide, to an interview, in which they might discuss the great business of the independence, by loosening without breaking the chains which united the two continents. The interview took place in the city of Cordova, on the 24th of August, 1821; and the first with the authority of his character, and the latter with that of the Mexican empire, after having conferred at length on what was most proper for both nations, considering the present situation and the last occurrences, agreed upon the following articles, which they signed by duplicates, to give them all the force of which documents of this sort are capable, each one keeping an original in his possession for the greater security and validity:

1. This America shall be recognised as a sovereign and independent nation, and shall in future be called the Mexican Empire.

2. The Government of the empire shall be a constitutional limited monarchy.

3. There shall be named, to reign in the Mexican empire, (after the oath which the fourth article of the plan points out), in the first place, the Senor D. Ferdinand VII., Catholic King of Spain, and, upon his renunciation or non-admission, his brother, the Most Serene Senor Infant D. Carlos; upon his renunciation or non-admission, the Most Serene Senor Infant D. Francisco de Paula; upon his renunciation or non-admission, the Most Serene Senor D. Carlos Luis, In-

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fant of Spain, formerly heir of Etruria, now of Lucca; and upon his renunciation or non-admission, he whom the Cortes of the empire shall designate.

4. The Emperor shall fix his Court in Mexico, which shall be the capital of the empire.

5. Two commissioners shall be appointed by his Excellency General O'Donoju, who shall go to the Court of Spain to place in the royal hands of Senor D. Ferdinand VII. a copy of this treaty, and the exposition which shall accompany it, for the service of His Majesty first, while the Cortes of the empire offer him the crown, with all the formalities and guarantees which a business of so much importance demands; and entreat His Majesty that, in the case of the third article, he deign to notify their Serene Highnesses the Infants, mentioned in same article, in the order in which they are named; interposing his benign influence that one of those personages designated from his august house may come to this empire, inasmuch as the prosperity of both nations is concerned in it; and for the satisfaction which the Mexicans will receive in adding this to the other bonds of friendship with which Spaniards can and desire to be united.

6. There shall be immediately appointed, according to the spirit of the plan of Iguala, a Junta composed of the first men of the empire for their virtues, for their stations, for their fortunes, authority, and judgment, of those who are designated by the general opinion, the number of whom may be very considerable, that the union of lights may insure the success of their determinations, which are emanations of the authority and powers which the following articles grant them.

7. The Junta, of which the following article treats, shall be named the Provisional Junta of Government.

8. Lieutenant General D. Juan O'Donoju shall be one of the Provisional Junta of Government, in consideration of the convenience of a person of his rank taking an active and immediate part in the Government, and from its being indispensable to admit some of those who were designated in the said plan, in conformity with its very spirit.

9. The Provisional Junta of Government shall have a President appointed by itself, and whose election shall take place in one of its own members or not, who shall have an absolute plurality of votes; and if an election does not take effect at the first voting, they shall proceed to a second scrutiny, beginning with the two who may have together most votes.

10. The first step of the Provisional Junta of Government shall be, to publish its installation, and the motives which unite it, with the explanations which it may consider proper, to illustrate to the people their interests, and the mode of proceeding in the election of deputies to the Cortes, of which mention shall be made hereafter.

11. The Provisional Junta of Government shall appoint, after the election of its President, a Regency, composed of three persons, either of its own members or otherwise, in which shall be vested

the executive power, and which shall govern in the name of the monarch, until he shall take the sceptre of the empire.

12. The Provisional Junta, being installed, shall govern provisionally according to the existing laws, in every thing not opposed to the plan of Iguala, and until the Cortes form the constitution of the State.

13. The Regency, immediately after being appointed, shall proceed to the convocation of the Cortes, agreeably to the method which the Provisional Junta of Government may determine, in conformity to the spirit of the twenty-fourth article of the said plan.

14. The executive power is vested in the Regency, the legislative in the Cortes; but as it has happened for some time before that they were united, that both may not again fall under one authority, the Junta shall exercise the legislative power, first in the cases which may occur, and which cannot await the meeting of the Cortes; and then shall proceed in accordance with the Regency; secondly, to serve as an auxiliary and consultative body to the Regency in its determinations.

15. Every person who belongs to a society, the system of government being changed, or the country passing into the power of another prince, remains in the state of natural liberty to transport himself, with his fortune, to what place he pleases, without there being any right to deprive him of this liberty, (unless he shall have contracted some debt with the society to which he belonged, by crime, or in other ways known to publicists,) in this case Europeans are admitted into New Spain, and the Americans resident in the Peninsula; consequently, they shall be free to remain, adopting this or that country; or to demand their passports, which cannot be refused to them, for removing from the realm in the time prefixed, bringing or carrying with them their families and effects, but satisfying, at the departure of the last, the established duties of exportation, or which may hereafter be established by competent authority.

16. The former alternative shall not have place with respect to public officers or military men who are notoriously disaffected to the independence of Mexico; but these shall of necessity quit this empire within the term which the Regency may prescribe, carrying away their property, and paying the duties mentioned in the preceding article.

17. The occupation of the capital by the troops of the Peninsula being an obstacle to the realizing of this treaty, it becomes indispensable to overcome it; but, as the first chief of the imperial army, uniting his sentiments to those of the Mexican nation, is desirous not to take it by force, because there are abundant resources, notwithstanding the valor and constancy of the said Peninsular troops, for the want of means and ability to support themselves against the system adopted by the whole nation, Don Juan O'Donoju offers to use his authority that the said troops may complete their departure without the effusion of blood, and

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by an honorable capitulation.—City of Cordova, 24th of August, 1821.

AUGUSTIN DE ITURBIDE.
JUAN O'DONOUJ.

A faithful copy of the original:

JOSE DOMINGUEZ.

A faithful copy of the original which remains in this commandancy general:

JOSE J. DE HERRERA,
THOMAS ILLANEZ.

Decree of the Regency of Mexico.

The Regency of the Empire has been pleased to address to me the following decree:

The Regency of the Empire, provisional Governor in absence of the Emperor, to all who shall see or hear these presents: Know ye, that the Sovereign Junta of Provisional Government has decreed as follows:

"In consequence of the desire expressed in the official letter of the 23d of October last, by his Excellency D. Augustin de Iturbide, that this Sovereign Junta would be pleased to determine the powers and duties belonging to him as Admiral Generalissimo, for the laudable purpose of not exceeding in the former, nor coming short in the latter, His Majesty has thought fit to declare that the prerogatives, powers, and honors, designated in the fifteen following articles, belong exclusively to him.

ARTICLE 1. He shall have command of the forces by sea and land, comprehending in his government the economical and administrative, according to the laws; consequently, all propositions of office, in both branches, shall pass through his hand, of officers and chiefs, from those of brigadier, inclusive, downwards, in the land army, and the equivalents in the other branches. He shall propose also for the governments of garrisons, commanders of provinces, captains general, and shall countersign the despatches of all these offices, receiving them from the Emperor, and passing them to the Secretary of War for their progress.

ART. 2. He shall direct the instruction of military colleges, and of corps of all the armories of the army and marine.

ART. 3. The inspection of the manufactures of gunpowder, arms, munitions, and clothing, shall be his province, with every thing else which relates to those branches. Also, he shall have charge of all that relates to arsenals, artilleryists, manufactures, &c. belonging to the marine.

ART. 4. He shall watch over the disbursement of the military treasury for sea and land, and the just distribution of the funds destined for those branches.

ART. 5. He shall attend to the distribution and movements of the land and sea forces, according to the orders of the Emperor which he may receive for that purpose.

ART. 6. He shall be the protector of commerce, navigation, police, and the works of the ports, as well as of the fortifications of the fortresses of the empire, with the powers of admiral.

ART. 7. He shall grant passports and licenses

for navigation, according to the orders of the Emperor.

ART. 8. The Secretary of Despatch of War and Marine, and that of the Treasury, in what concerns those branches, shall send to him for his information the imperial orders which have been sent by the ministers relative to them.

ART. 9. Preserving the état major of the army, under the plan which is approved, according to the proposition of the generalissimo himself, he shall name two generals, who, as chiefs of it, may communicate the orders which they give; and may also pursue, in their name, the correspondence with the Secretaries of State, for facilitating the expedition of business.

ART. 10. When the état major of marine is formed, he shall appoint one of the generals mentioned in the former article, or shall appoint a third, if the multiplicity of business require it, for the discharge of the duties, and attaining the ends mentioned.

ART. 11. He shall have the title of *Highness*; but, in official letters which may be addressed to him, the aforesaid signature shall be omitted, to preserve this distinction for the Regency.

ART. 12. His guard shall be composed of two companies of infantry, with a banner, which shall present arms and beat a march. This guard shall only do honors to the persons of the imperial family.

ART. 13. When he goes out, there shall go before four body guards, and behind an escort of twenty men, commanded by their officer.

ART. 14. In the court and residence of the Emperor, the posts of the place shall do him correspondent honors.

ART. 15. On his entrance into, and departure from, the fortresses, and garrisons, the troops shall be drawn up, and the artillery shall salute him with twenty-one guns, he having in every thing, by sea and land, supreme military honors.

The Regency shall take the charge of disposing its execution; and that it be printed, published, and circulated.

Mexico, 14th November, 1821, (first of the independence of this empire.)

J. M. G. Y ALCOZER, *President*.
A. DE GAMAY Y CORDOVA,
JOSE R. SUAREZ PEREDA,
J. M. E. Y VALDIOIELSO,
Vocal Secretaries.

To the REGENCY of the Empire.

Therefore, we command all tribunals, justices, chiefs, governors, and other authorities, as well civil as military and ecclesiastic, of whatever class and dignity, that they keep, and cause to be kept, fulfilled, and executed, the present decree, in all its parts. Ye shall attend to its execution, and provide for its being printed, published, and circulated.—In Mexico, the 14th of November, 1821.

AUG. DE ITURBIDE, *Pres.*
M. DE LA BARCENA,
ISIDRO YANEZ,
M. VELASQUEZ DE LEON,
ANTONIO, *Bishop of Puebla.*
A. D. JOSE DOMINGUEZ.

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By order of the Regency of the Empire, I communicate this to you for your information.

God preserve you many years.

JOSE DOMINGUEZ.

MEXICO, November 15, 1821.

Manifesto of the Provisional Board of Government to the People of the Empire.

After the long night of three ages in which America has lain plunged in darkness, the aurora of her felicity at last burst forth; that day dawned for which she had sighed, and which she desires may be perpetual. This consummation would never have been obtained if it had not been founded in justice, or if justice herself were not to be the base of the Government which is to consolidate it. But the Junta has the satisfaction to announce that both considerations are combined in the emancipation which we have accomplished.

Nature has marked out the territories of nations by rivers, mountains, and other boundaries, which establish their limits. How many States are divided by the Po and the Rhine, as the Alps and the Pyrenees divide France from Italy and from Spain. From this last, immense seas and a vast distance divide America—distances which not only make them different as kingdoms, but establish them as belonging to two different worlds. Policy must necessarily conform to the order of nature; and as it would be monstrous to put in the same space the contrary elements of fire and water, it is equally so to unite in one province people who are distinct and distant, especially if that difference and distance extend to the extremity of the two worlds. Since, then, it embraces all the contrarieties which climate can originate, two vast globes and opposite movements cannot revolve without embarrassment upon one axis, but each requires its own. In the same manner, two empires of distinct and opposite qualities require two Governments, without being susceptible of being united in one, which is never sufficient to govern both well.

If occasionally, the order of nature is violated, in departing from the boundaries she fixes, it must happen, as with fire enclosed in the mines, that an explosion will finally take place. The two Spains, Old and New, or, which is the same thing, Castile and Mexico, which have hitherto borne those names, belong to distinct regions of the earth, to different portions of the globe, to opposite zones of the sphere—differences which at once evince the justice of their separation. If they have been united, as Esau and Jacob in the womb of Rebecca, and have long remained so, this alone, giving to the latter her growth, has rendered it necessary that they should separate, as these twins did, first in the maternal bosom, and afterwards in their descendants.

The growth of nations constitutes, successively, their youth and virility—ages which demand their separation. It is very natural that when a nation has arrived at these ages, she should refuse to depend upon one whose assistance she no longer needs, in order to act for herself. If even among brutes, the teats of the dam are forsaken by the

offspring, which has now become capable of receiving other aliment than milk; if the chick whose wings have grown flies alone, and no longer suffers itself to be conducted by the bird which formerly transported it; if the pubescent virgin consents to the nuptials which compel her to abandon the paternal dwelling, in order to form a new family; is it not just that America, having acquired the strength which justifies it, should emancipate herself?

It has been long since she arrived at her youth; but it has also been long since assent was refused to her emancipation; for, before that was accomplished, she had attained the age of virility, which justifies it still more. The qualifications which demonstrate that age are to be found in her, both the moral ones of refinement and intelligence, and the physical ones of arms and population. The increase of their families alone prevented Abraham and Lot from dwelling in common, and they took different routes in order to live separate.

Why, then, deny to America the justice which may assist her in emancipating herself; supposing this to be her situation and circumstances? Must she not listen to the voice of nature, which speaks to her even through her insensible organs? May she not burst, like the plant, the teguments which covered her when young? Must she be forever in pupillage, though at the age of puberty? and must she remain a child of the family even when she is both able and willing to shake off the paternal authority? But even this is not all: nature tells her still more, especially through the organ of reason.

Whenever the bird can force the door of its cage, or any other animal break the ligaments which confine it, they do not hesitate a moment in doing so, for reason teaches them to seek their own happiness. This is what justifies still more the independence of America. She has been able to burst her fetters in order to acquire her liberty, and to escape from the yoke which impeded her prosperity, and placed her labor, industry, commerce, and all her movements, within such bounds and restraints as might enfeeble them, in order to make preponderant the importance of the mother country, or rather in order that the sole and absolute power might be vested in the latter. Between the power and performance in this case, and with respect to such high and interesting objects as are dictated by nature and demonstrated by reason, there ought to be no space whatever, for they immediately touch each other.

The Provisional Board of Government, installed for these purposes, in consequence of their attainment and the occupation of the capital, has no other view than them. It has been assembled in order to found, perfect, and perpetuate them. The fundamental principles of government which they have adopted appertain to the first; the mode of procedure upon which they have resolved to the second; the ties and ligaments which they have proposed to themselves to the third; and they expose it all to the people, in order that they may judge of the sincerity and propriety of their intentions and conduct.

The foundations should correspond to the edi-

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fice, and are what give it its principal strength. The principles of government which have been adopted conformably to the plan of Iguala and the treaty of Cordova are those received by the most illustrious nations. A representative in preference to an absolute government, a limited monarchy, and a constitutional system with which we are already acquainted, are the fundamental maxims, the angular stone of our edifice. There is nothing to apprehend from the ideas opposed to these, nor from those which will not bear the light of day. Those which animate us are purely liberal. Until the meeting of the Cortes, the Spanish constitution and laws will be observed, so far as they are not inapplicable to the peculiar situation of the country.

The plan of operations or mode of proceeding of the Junta has been to appoint a Regency to exercise the executive power, reserving to itself the legislative power for such purposes as cannot be delayed until the meeting of the Cortes, to whom this branch of the Government appertains. Had the Junta assumed this power in its whole extent, it would have usurped it from the people; but if it were not to exercise it provisionally in cases of urgency, the Government would remain defective; the necessities of the moment could not be provided for, nor the thousand junctures which may present themselves be met.

To obviate both the one and the other, they have already prescribed to themselves a rule not to sanction any thing, even provisionally, unless its nature is such that it will not admit of being delayed until the meeting of the Cortes, to whom every thing else is referred. The wisdom of their measures, which involves the perfection of the liberty and happiness of the people, depends upon the choice which they may make of proper representatives. The province of this board is to inform them on the subject, in order that, all passions being laid aside, and intrigue and party spirit banished, they may have no other end in view than the welfare of the country. For this the Junta is now laboring, and to take such measures that the Congress may be assembled in as short time as possible.

In the mean time, the public debt, so called, has been acknowledged, and ordered to be paid as soon as affairs are in a condition to do so; at the same time, a stop has been put to the arbitrary contributions with which the inhabitants were oppressed without any advantage to the treasury. The first fact is announced for the satisfaction of the creditors, the second for that of the public, and both as an evidence of the proceedings of the Government. Would it were possible for the latter to pay another debt much greater, and of a superior kind, of which it confesses itself a debtor. Such is that of the deserving army, which, animated by the purest patriotism, and braving dangers and difficulties at the expense of inexpressible sacrifices, have consummated the arduous undertaking which Heaven was pleased to protect and crown with success. But there is no tongue to express what it deserves, no hand to remunerate its services. Who is there competent

to relate what all and each of its individuals have performed—the actions which have signalized many of the soldiers and chiefs, especially the first, who animated the rest? What reward can we give them, or what can recompense their benefits? as Tobias the youth demanded of his father, speaking of his benefactor. We have no other choice, inasmuch as reward is impossible, but to manifest to them our gratitude; to which end many steps have been taken, and others will continue to be taken.

Finally, the bonds which the Junta has proposed to itself, in order to insure and prolong our independence, are, besides the union of the inhabitants of the empire, which constitutes one of the guarantees, an alliance, federation, and commerce with other nations. The Spanish nation, to whom we owe our origin, and to whom we are attached by the closest ties, ought to be the first and most privileged in our consideration. We do not content ourselves with the mere family connexion which results from calling one of their princes of the royal blood to our empire. We aspire to more; we desire to unite ourselves in a fraternity which may turn to the advantage of the whole nation, and let it know that our political independence, to which we have been compelled by the causes set forth, does not loosen the bonds which unite us, nor cool our affections, which ought to be the more sincere, in order to destroy all resentment.

We desire, then, that our fraternity may be made known to the whole world; that European Spaniards, in virtue of that title alone, may domiciliate themselves in our country, subjecting themselves to its laws, and under the inspection of our Government; that our ports may be opened to them for the purposes of trade in such a manner as may be arranged by our laws, and that a preference may be given to them as far as possible above other nations; that there may be established between them and us, if practicable and agreeable to them, a good reciprocal understanding, regulated by definitive treaties; and that in every thing there may appear the most cordial amity. With regard to foreign nations, we shall preserve harmony with all, commercial relations and others, as may be expedient.

The Junta congratulates itself that the people of the Empire will perceive, in what has been set forth, at least their wishes for a successful result, which they expect from the patriotism and intelligence of the inhabitants, who may suggest to it whatever they deem conducive to a better government, which the Junta will hold in due consideration.

ANTONIO, BISHOP OF PUEBLA,
President.

J. J. E. DE LOS MONTEROS,
J. R. SUAREZ PEREDA.

MEXICO, Oct. 13, 1821.

To the Senate of the United States:

I transmit to the Senate, agreeably to their resolution of yesterday, a report from the Secretary of

Condition of Spanish South America.

State, with copies of the papers requested by that resolution, in relation to the recognition of the South American provinces.

JAMES MONROE.

WASHINGTON, April 26, 1822.

DEPARTMENT OF STATE, April 25, 1822.

The Secretary of State, to whom has been referred a resolution of the Senate of this day, requesting the President to communicate to the Senate any information he may have, proper to be disclosed, from our Minister at Madrid, or from the Spanish Minister resident in this country, concerning the views of Spain relative to the recognition of the independence of the South American colonies, and of the dictamen of the Spanish Cortes, has the honor to submit to the President copies of the papers particularly referred to.

JOHN QUINCY ADAMS.

Don Joaquin de Anduaga to the Secretary of State.

WASHINGTON, March 9, 1822.

SIR: In the National Intelligencer of this day, I have seen the Message sent by the President to the House of Representatives, in which he proposes the recognition by the United States of the insurgent Governments of Spanish America. How great my surprise was, may be easily judged by any one acquainted with the conduct of Spain towards this Republic, and who knows the immense sacrifices which she has made to preserve her friendship. In fact, who could think that, in return for the cession of her most important provinces in this hemisphere; for the forgetting of the plunder of her commerce by American citizens; for the privileges granted to their navy; and for as great proofs of friendship as one nation can give another, this Executive would propose that the insurrection of the ultramarine possessions of Spain should be recognised? And, moreover, will not his astonishment be augmented to see that this Power is desirous to give the destructive example of sanctioning the rebellion of provinces which have received no offence from the mother country to those whom she has granted a participation of a free constitution, and to whom she has extended all the rights and prerogatives of Spanish citizens? In vain will a parallel be attempted to be drawn between the emancipation of this Republic and that which the Spanish rebels attempt; and history is sufficient to prove that, if a harassed and persecuted province has a right to break its chains, others, loaded with benefits, elevated to the high rank of freemen, ought only to bless and embrace more closely the protecting country which has bestowed such favors upon them.

But even admitting that morality ought to yield to policy: what is the present state of Spanish America, and what are its Governments, to entitle them to recognition? Buenos Ayres is sunk in the most complete anarchy, and each day sees new despots produced, who disappear the next. Peru, conquered by a rebel army, has near the gates of its capital another Spanish army, aided by part of

the inhabitants. In Chili, an individual suppresses the sentiments of the inhabitants, and his violence presages a sudden change. On the coast of Firma, also, the Spanish banners wave, and the insurgent Generals are occupied in quarrelling with their own compatriots, who prefer taking the part of a free Power to that of being the slave of an adventurer. In Mexico, too, there is no Government; and the result of the questions which the chiefs commanding there have put to Spain is not known. Where, then, are those Governments which ought to be recognised? where the pledges of their stability? where the proof that those provinces will not return to a union with Spain, when so many of their inhabitants desire it? and, in fine, where the right of the United States to sanction and declare legitimate a rebellion without cause, and the event of which is not even decided?

I do not think it necessary to prove that, if the state of Spanish America were such as it is represented in the Message; that if the existence of its Governments were certain and established; that if the impossibility of its reunion with Spain were so indisputable; and that if the justice of its recognition were so evident, the Powers of Europe, interested in gaining the friendship of countries so important for their commerce, would have been negligent in fulfilling it. But, seeing how distant the prospect is of even this result, and faithful to the ties which unite them with Spain, they await the issue of the contest, and abstain from doing a gratuitous injury to a friendly Government, the advantages of which are doubtful, and the odium certain. Such will be that which Spain will receive from the United States, in case the recognition proposed in the Message should take effect; and posterity will be no less liable to wonder that the Power which has received the most proofs of the friendship of Spain should be the one delighted with being the first to take a step which could have only been expected from another that had been injured.

Although I could enlarge upon this disagreeable subject, I think it useless to do so, because the sentiments which the Message ought to excite in the breast of every Spaniard can be no secret to you. Those which the King of Spain will experience at receiving a notification so unexpected will be doubtless very disagreeable; and at the same time that I hasten to communicate it to His Majesty, I think it my duty to protest, as I do solemnly protest, against the recognition of the Governments mentioned, of the insurgent Spanish provinces of America, by the United States, declaring that it can in no way now, or at any time, lessen or invalidate in the least the right of Spain to the said provinces, or to employ whatever means may be in her power to reunite them to the rest of her dominions.

I pray you, sir, to be pleased to lay this protest before the President, and I flatter myself that convinced of the solid reasons which have dictated it, he will suspend the measure which he has proposed to Congress, and that he will give to His Catholic Majesty this proof of his friendship and of his justice.

Condition of Spanish South America.

I remain, with the most distinguished consideration, praying God to guard your life many years, your most obedient humble servant,

JOAQUIN DE ANDUAGA.

JOHN Q. ADAMS, *Sec. of State.*

The Secretary of State to the Minister from Spain.

DEPARTMENT OF STATE,

Washington, April 6, 1822.

SIR: Your letter of the 9th of March was, immediately after I had the honor of receiving it, laid before the President of the United States, by whom it has been deliberately considered, and by whose direction I am, in replying to it, to assure you of the earnestness and sincerity with which this Government desires to entertain and to cultivate the most friendly relations with that of Spain.

This disposition has been manifested not only by the uniform course of the United States in their direct political and commercial intercourse with Spain, but by the friendly interest which they have felt in the welfare of the Spanish nation, and by the cordial sympathy with which they have witnessed their spirit and energy exerted in maintaining their independence of all foreign control and their right of self-government.

In every question relating to the independence of a nation, two principles are involved: one of *right*, and the other of *fact*; the former exclusively depending upon the determination of the nation itself, and the latter resulting from the successful execution of that determination. This right has been recently exercised, as well by the Spanish nation in Europe, as by several of those countries in the American hemisphere which had for two or three centuries been connected as colonies with Spain. In the conflicts which have attended these revolutions, the United States have carefully abstained from taking any part respecting the right of the nations concerned in them to maintain or newly organize their own political constitutions, and observing, wherever it was a contest by arms, the most impartial neutrality. But the civil war in which Spain was for some years involved with the inhabitants of her colonies in America has, in substance, ceased to exist. Treaties equivalent to an acknowledgment of independence have been concluded by the commanders and viceroys of Spain herself with the republic of Colombia, with Mexico, and with Peru; while, in the provinces of La Plata and in Chili, no Spanish force has for several years existed to dispute the independence which the inhabitants of those countries had declared.

Under these circumstances, the Government of the United States, far from consulting the dictates of a policy questionable in its morality, has yielded to an obligation of duty of the highest order, by recognising as independent states nations which, after deliberately asserting their right to that character, had maintained and established it against all the resistance which had been or could be brought to oppose it. This recognition is neither intended to invalidate any right of Spain, nor to affect the employment of any means which she

may yet be disposed or enabled to use, with the view of reuniting those provinces to the rest of her dominions. It is the mere acknowledgment of existing facts, with the view to the regular establishment with the nations newly formed of those relations, political and commercial, which it is the moral obligation of civilized and christian nations to entertain reciprocally with one another.

It will not be necessary to discuss with you a detail of facts upon which your information appears to be materially different from that which has been communicated to this Government, and is of public notoriety, nor the propriety of the denominations which you have attributed to the inhabitants of the South American provinces. It is not doubted that other and more correct views of the whole subject will very shortly be taken by your Government, and that it, as well as the other European Governments, will show that deference to the example of the United States which you urge it as the duty or the policy of the United States to show to theirs. The effect of the example of one independent nation upon the councils and measures of another can be just only so far as it is voluntary; and as the United States desire that their example should be followed, so it is their intention to follow that of others upon no other principle. They confidently rely that the time is at hand when all the Governments of Europe friendly to Spain, and Spain herself, will not only concur in the acknowledgment of the independence of the American nations, but in the sentiment that nothing will tend more effectually to the welfare and happiness of Spain than the universal concurrence in that recognition.

I pray you, sir, to receive the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

Don J. DE ANDUAGA, *Envoy, &c.*

Don Joaquin de Anduaga to the Secretary of State.

PHILADELPHIA, April 11, 1822.

SIR: I have had the honor of receiving your note of the 6th instant, in which you were pleased to inform me that this Government has recognised the independence of the insurgent provinces of Spanish America. I despatched immediately to Spain one of the secretaries of this legation to carry to His Catholic Majesty news as important as unexpected; and, until I receive his royal orders upon the subject, I have only to refer to my protest of the 9th of March last, still insisting upon its contents as if its substance were repeated in the present note.

With the greatest respect, I renew the assurance of my distinguished consideration.

JOAQUIN DE ANDUAGA.

Extract of a letter from Mr. Forsyth to the Secretary of State, dated

MADRID, February 14, 1822.

I have the honor to enclose to you a hurried translation of the last dictamen of the commission

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of the Cortes on the affairs of Spanish America, and the determinations made by that body.

Dictamen of the commission to whom it was referred to report on the state of the provinces of Ultramar, presented February 12, 1822.

The commission has meditated maturely and circumspectly on the proposition of the Minister of Ultramar, and, after having heard him, has considered the diverse circumstances in which the provinces of both Americas are at present, and may be found hereafter; the fruitlessness and inefficacy of the commissions that have been directed to the Government established in them; and, possessed with the noble desire that the same may not again, with the waste of public treasure, and the sacrifice of humanity, occur, is of opinion that the Cortes ought not to lose time in considering the proposition of the Ministry, since it will be a consequence of the results; and, in order to obtain them, the Government, and the commissioners it elects, ought to be authorized to hear and to transmit to the legislative power every class of propositions, be they what they may; at the same time it judges that the national decorum, and the protection which in justice is due to the European and American Spaniards, call for the establishment of a basis useful and conducive to the welfare of the Spains.

Before fixing this basis, and that it may be as productive to the common felicity as policy and the national honor require, the commission lays down the fixed principle that this new, grand, and legitimate path for the pacific communications being opened, all treaties be esteemed of no value or efficacy that have been formed between Spanish chiefs and American Governments, which ought to be understood as null, as they have been from their origin, as respects the acknowledgment of independence, inasmuch as they were not authorized, nor could such authority be given them, unless by previous declaration of the Cortes.

The commissioners may hear all the propositions that may be made to them in order to transmit them to the metropolis, excepting such as take away or limit in any manner the absolute right of the European and American Spaniards, residing in whatever part of the ultramarine provinces, to remove and dispose of their persons, families, and property, as they may think proper, without being opposed by any obstacle or measure that might prove injurious to their fortunes. With this explanation, the commission reproduces its anterior dictamen; the Cortes will resolve what may be most proper.

Espiga,	Oliver,
Cuesta,	Murphy,
Alvares Escuden,	Navarette,
Toreno,	Paul.
Moscoso,	

The particular vote of the *Senor Oliver* proposes to add the following clause to the dictamen:

"That it ought to be understood as not affecting the responsibility which persons, whoever they may be, may have incurred in this affair, nor the

rights of the Spanish nation represented by the Cortes and the King."

The particular vote of the *Senors Moscoso, Torreno, and Espiga*, proposes the following additions to the dictamen:

"1. That the Cortes declare that the treaty called that of Cordova, celebrated between General O'Donoju and the chief of the dissidents in New Spain, Don Augustin Iturbide, as well as any other act or stipulation relative to the recognition of Mexican independence by that General, are illegitimate, and null in their effects as to the Spanish Government and its subjects."

"2. That the Spanish Government, by a declaration to all others with which it has friendly relations, make known to them that the Spanish nation will regard, at any epoch, as a violation of the treaties, the recognition, either partial or absolute, of the independence of the Spanish provinces of Ultramar, so long as the dissensions which exist between some of them and the metropolis are not terminated, with whatever else may serve to convince foreign Governments that Spain has not yet renounced any of the rights belonging to it in those countries."

"3. That the Government be recommended to take all possible measures, without any delay, to preserve and reinforce those points of the provinces of Ultramar that remain united to the metropolis, obedient to its authority, or that resist the separation from it by the dissidents; proposing to the Cortes the resources it requires, and are not at its disposal."

"4. That the Cortes declare that the provinces of Ultramar that have declared their independence of the metropolis, or do not acknowledge *de facto* the supremacy of the Government of it, ought not to have deputies in the Cortes during their continuance in this state."

The additional vote of *Senors Murphy, Navarette, and Paul*, to the anterior dictamen, states that it is their opinion that, in case of the approbation by the Cortes of the dictamen of the commission, they should not approve the additional votes presented by some individuals of it, as being contrary to the ends proposed by the same commission, but should put in execution the measures included in the dictamen without delay, without prejudice to what the ordinary Cortes may opportunely resolve upon; whatever else they may esteem convenient.

After a short discussion, whether the dictamen should be discussed by itself, or with the additional votes, it was determined that the dictamen of the commission should be first discussed. During the discussion, propositions to the following effect were presented by the *Senor Solanot*, viz:

"That the Cortes, with a generosity peculiar to the constitutional system by which we are governed, and for the general interest of the Spaniards of both worlds, declare the independence of all those provinces of both Americas that actually are so at this day, on condition that each one of those Governments pay an annual subsidy in recompense of the rights which are renounced; that a treaty of commerce be formed on the basis most convenient to the reciprocal interests of the Amer-

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ican and Peninsular Spaniards; that all hostilities be completely suspended until this treaty be completely approved; that all the Spaniards who may wish to retire to the Peninsula may do so freely, with all the funds belonging to them, without being obliged to pay any duty whatever; that any Spaniard who wishes to live in America shall have preserved to him the enjoyment of all his rights and property; that every Spaniard who may have been deprived of his property and of his rights, in consequence of the anterior disturbances, shall be reinstated in them; that all the wealth and property belonging to European Spain shall remain at its disposal, and be removed to the Peninsula at the expense of America; that all the troops that are actually in America, belonging to European Spain, shall be maintained in the same points at the cost of the American Government, until the ratification of this treaty; that European Spain may dispose of the naval force it has in America; and that there be established a confederation composed of the American Governments, under the protection of European Spain, upon the basis that may be most convenient, and guaranteed as may be accorded."

Senor Munoz Torrero demanded that the author of those propositions should withdraw them immediately, as he had no powers to authorize his making them, or, if he had, to exhibit them. The Cortes accorded that these propositions should be withdrawn, as contrary to the power given to them by the Constitution.

After considerable discussion, the Cortes approved of the dictamen as proposed by the commission.

On the following day the particular votes were discussed, and decided as follows:

That of Senor Oliver was not admitted to a vote.

That of Senors Moscoso, Espiga, and Toreno, the three first articles approved, and the fourth withdrawn by its author.

GREAT BRITAIN AND RUSSIA—NORTHWEST COAST.

[Communicated to the House, April 17, 1822.]

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 16th of February last, requesting the President of the United States "to communicate to that House whether any foreign Government has made claim to any part of the territory of the United States upon the coast of the Pacific ocean, north of the forty-second degree of latitude, and to what extent; whether any regulations have been made by foreign Powers affecting the trade on that coast, and how far it affects the interests of this republic; and whether any communications have been made to this Government by foreign Powers touching the contemplated occupation of Columbia river," I now transmit a report from the Secretary of State,

containing the information embraced by that resolution.

JAMES MONROE.

WASHINGTON, April 15, 1822.

DEPARTMENT OF STATE,

Washington, April 13, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 16th of February last, requesting the President of the United States "to communicate to that House whether any foreign Government has made claim to any part of the territory of the United States upon the coast of the Pacific ocean north of the forty-second degree of latitude, and to what extent; whether any regulations have been made by foreign Powers affecting the trade on that coast, and how far it affects the interests of this republic; and whether any communications have been made to this Government by foreign Powers touching the contemplated occupation of Columbia river," has the honor of submitting to the President sundry papers, containing the information embraced by the resolution.

At the time when the subject of the proposed occupation of the Columbia river was presented to the consideration of Congress, at their last session, the Minister of Great Britain, at two several interviews with the Secretary of State, suggested that Great Britain had claims on the Northwest coast of America, with which he conceived that such occupation on the part of the United States would conflict; and requested to be informed what were the intentions of the Government of the United States in this respect. The Secretary of State declined answering those inquiries, or discussing those claims, otherwise than in writing. But no written communication upon the subject has been received.

JOHN Q. ADAMS.

The PRESIDENT of the U. S.

Mr. Monroe to Mr. Baker, Chargé d'Affaires from Great Britain.

DEPARTMENT OF STATE, July 18, 1815.

SIR: It is represented that an expedition which has been sent by your Government against a post of the United States, established on Columbia river, had succeeded in taking possession of it. By the first article of the Treaty of Peace, it is stipulated that all territory, places, and possessions whatsoever, taken by either party from the other during the war, shall be restored without delay, with the exception only of the islands in Passamaquoddy bay, which should remain in the possession of the party in whose occupation they then were, subject to the decision provided for in the fourth article. As the post on Columbia river was taken during the war, and is not within the exception stipulated, the United States are of course entitled to its restitution; measures, therefore, will be taken to reoccupy it without delay. It is probable that your Government may have given orders for its restitution; to prevent, how-

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ever, any difficulty on the subject, I have to request that you will have the goodness to furnish me with a letter to the British commander there to that effect.

I have the honor to be, &c.

JAMES MONROE.

A. ST. JOHN BAKER, Esq.

Mr. Baker, Chargé d'Affaires from Great Britain, to Mr. Monroe, Secretary of State.

WASHINGTON, July 23, 1815.

SIR: I have had the honor to receive your letter of the 18th instant, acquainting me that it had been represented to the American Government that a British force, sent for that purpose, had succeeded in taking possession of the United States establishment on Columbia river, and claiming its restoration under the words of the first article of the treaty, upon the ground of its having been captured during the war; stating, likewise, that His Majesty's Government may have given order for its restitution, but requesting, with a view to prevent any difficulty on the subject, that I would furnish a letter to that effect to the British commander there.

As I have received no communication from His Majesty's Government on the subject of these orders, you will readily, I am convinced, perceive the impracticability of my furnishing a letter of this nature; and although it is believed that the post in question has been captured, of which, however, the American Government does not appear to have any certain information on which to ground the claim of restitution, yet another point, equally essential, remains in great uncertainty, viz: whether any persons whatsoever were left to retain possession of it. My impression is, that the establishment was broken up, and the persons found there brought away. Vice Admiral Dixon, however, the commander-in-chief of His Majesty's naval forces on the Brazil station, in whose command the Pacific ocean is included, is no doubt in possession of every necessary information in relation to this post, and will be able to communicate on the subject with any authorized agent on the part of the United States.

Having observed that you have stated, in two letters which I have lately had the honor of receiving from you, that I had been particularly charged with the execution of the Treaty of Peace, I avail myself of this opportunity of noticing the circumstance, simply with a view of preventing any possible misapprehension which might be produced by it. You will perceive, on a reference to the two credentials empowering me to exchange the ratifications, and to act as His Majesty's Chargé d'Affaires, that no such particular authority was vested in me, although the general powers of the above character would undoubtedly enable me to promote, and in some respects accomplish, this object.

I have the honor to be, &c.

A. ST. JOHN BAKER.

Mr. Bagot, Envoy Extraordinary and Minister Plenipotentiary from Great Britain, to Mr. Adams, Secretary of State.

WASHINGTON, Nov. 26, 1817.

SIR: From the conversation which you did me the honor to hold with me two days ago, upon the occasion of the inquiry which I thought it my duty to make relative to the reported destination of the United States sloop-of-war Ontario, I am, I presume, warranted in inferring that the information which I had previously received upon that subject is essentially correct, and that one of the objects of the voyage of the Ontario is to establish a settlement in the neighborhood of the Columbia river, on the Northwest coast of America.

It will be remembered that, some months after the exchange of the ratifications of the treaty of peace, an application was made to Mr. Baker, then His Majesty's Chargé d'Affaires in this country, claiming the restitution of a post which had been held by the United States upon the Columbia river, and which was alleged to have been captured during the war; and Mr. Baker was requested to take steps for the purpose of facilitating its restoration.

Mr. Baker having, in his reply, pointed out the insufficiency of the evidence on which the claim of restitution appeared to be founded, and having represented his want of authentic information and instructions upon the subject, referred the Secretary of State to the British Admiral, within whose command he conceived the Pacific ocean to be included.

In consequence of this correspondence, an application was soon afterwards made by Mr. Baker to the Governor General of Canada, in the expectation that he, perhaps, might be enabled to furnish some information upon the subject, in the event of the question being again brought into discussion.

From the reports then made by him, it appeared that the post in question had not been captured during the late war, but that the Americans had retired from it, under an agreement made with the Northwest Company, who had purchased their effects, and who had ever since retained peaceable possession of the coast.

As it thus appears that no claim for the restitution of this post can be grounded upon the first article of the Treaty of Ghent, and as the territory itself was early taken possession of in His Majesty's name, and has been since considered as forming a part of His Majesty's dominions, I have to request that you will do me the honor to furnish me with such explanation as you may judge proper of the object of the voyage of the Ontario, so far as it may relate to establishments upon the territory to which I refer, in order that I may represent to His Majesty's Government, in its just point of view, a measure in which His Majesty's rights and interests appear to be so materially involved.

I have the honor to be, sir, your most obedient servant,

CHARLES BAGOT.

Extracts of a letter from Mr. Rush to the Secretary of State, dated

LONDON, February 14, 1818.

I am now to have the honor of stating all that passed in the conversation with Lord Castlereagh on the 1st of this month.

His lordship introduced in the last place (assuaging as much as possible, by his manner, the essential character of his remarks) the affair of the establishment at the mouth of the river Columbia. A despatch from Mr. Bagot, he observed, had acquainted the Government here with the steps lately taken by the Government of the United States to repossess itself of that post; and he had to express to me the regret which had been felt at the measure. It was to have been wished, he intimated, that, before the Ontario sailed, notice had been given to the British Minister at Washington of the intention to despatch her, with a communication of the objects of her destination; Great Britain having a claim of dominion over the territory in question. He went on to inform me that Mr. Bagot had sent in a remonstrance upon the occasion, to which, at the last dates, an answer had not been returned. His lordship closed by saying that it was the desire of this Government to submit to the Government of the United States a proposal that the claim of title to this post should, as in the former instances, go before commissioners, and be governed, in other respects, by the precedent of the treaty, annexing to it a third supplemental article as the groundwork of an eventual arbitration.

To his propositions and remarks I made such replies as the nature of all, and the novelty of some of them, appeared to demand. First, as to the settlement at Columbia river: Having heard nothing from the Department upon the subject, I was necessarily uninformed of what passed at Washington. I could only treat it as my first impressions dictated. I expressed the surprise which I felt at its assuming an aspect of complaint. The just grounds upon which England claimed dominion were, I said, unknown to me. Granting that there did exist in her favor any claim or pretence of right, was it possible that the lawfulness of the step taken could be drawn into question? That the spot was in our possession before the war, was a fact known to the world; that it fell, by belligerent capture, into the hands of Britain, whilst it raged, was alike notorious. How, then, under a treaty which stipulated the mutual restitution of all places reduced by the arms of either party, was our right to immediate and full repossession to be, for an instant, impugned? I advert to the familiar case of Nootka Sound and the Falkland Islands. Here Great Britain, under circumstances far less strong, had asserted the undeniable principle of which we had claimed the benefit. In fine, I know not how to illustrate or justify, by argument, a measure which seemed to rest upon so broad and indisputable a foundation of national right. It is proper, at this stage, to say that Lord Castlereagh admitted, in the most ample extent, our right to be reinstated,

and to be the party in possession while treating of the title. The manner of obtaining it he said was alone to be lamented, declaring that it arose from the possible tendency which it might have to give some momentary disturbance in that region to the general harmony subsisting between the countries. He hoped sincerely this would not be the case, and added that, with a view to forestall, by the most prompt and practicable means, such a result, he had addressed a note to the Lords of the Admiralty, and another to Lord Bathurst, Secretary of State for the Colonial Department, on the 26th of last month, desiring that the proper orders might be expedited to prevent, under whatever form, all hostile collision. A copy of these notes he took down and read to me.

I proceeded with further remarks. Though it was scarcely to be expected, I said, that I could yet have received information from my Government relative to the measure, and although, in fact, nothing had reached me, I was nevertheless most abundantly confident that it had originated in no unfriendly motive or feeling. It had so happened, I continued, that I had been honored with some knowledge of the Executive deliberations at about the time the Ontario sailed, which left me the less scruple in making this assertion. It was true I had come away before her final departure; but sure I felt that there could have been no alteration in the unexceptionable views that had suggested the voyage; and, above all, I subjoined, that the use of force, as a means of re-establishing our previous dominion, had in nowise coupled itself with the intentions that were formed. These assurances, I thought, appeared to go some lengths towards placing the transaction in its innocent and justifiable lights. Given, as they were, frankly, I hope that what I said may be found to meet the President's approbation. I felt all the extravagance of the supposition that there had been any deviation, on the part of the Government, in this instance, from its wonted respect to the rights of other nations. Lord Castlereagh did not, in any way, unfold the nature of the British claim.

Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy Extraordinary and Minister Plenipotentiary in London, dated

DEPARTMENT OF STATE,

Washington, May 20, 1818.

From the tenor of your correspondence with Lord Castlereagh, reported in your despatch No. 7, as well as from the communications made here on the same subject by Mr. Bagot, it appears that the British Government have acceded to the proposals heretofore made on our part, to refer the question which has arisen upon the construction of the first article of the Treaty of Ghent, in relation to the restitution of slaves carried away from the United States after the ratification of the treaty of peace, to the arbitration of a friendly sovereign. This accession is understood to be absolute and unconditional, but accompanied with the suggestion of a wish on the part of the British

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Cabinet to try, as a previous measure, the experiment adopted for the adjustment of other questions between the two countries, of submitting the case to the decision of commissioners mutually chosen by the two parties; submitting at the same time to the same, or other commissioners appointed in like manner, the ascertainment and demarcation of a boundary line from the northwest corner of the Lake of the Woods, westward; and the right and title of the United States to a settlement at the mouth of Columbia river on the Pacific ocean.

If the proposal to refer to commissioners the decision of the question relating to the slaves, before having recourse to the arbitration, had been confined to that object, it would have been accepted without hesitation or delay. But it has been so connected with the others, that Lord Castlereagh at least avoided committing his Government to the engagement of disposing, in that manner, of this particular point of difference by itself. Mr. Bagot's statement of the proposal is of the same character. Without explicitly declaring that the British Government would decline submitting the slave question alone to commissioners, he did not profess to be authorized to agree to it separately, and urged, on various grounds, the expediency of arranging, as soon as possible, and by the same means, all the subjects which might even be hereafter occasions of misunderstanding between the two countries.

Taken altogether as a complicated proposal, it involves a multitude of considerations, which require some deliberation before a definitive answer can be given. As soon as the President shall have come to a determination concerning it, the result will be immediately communicated to you. In the mean time, it may be proper that you should assure Lord Castlereagh that it was entirely owing to accident, and to the communications which had previously passed between the late Secretary of State and Mr. Baker, concerning the restitution of the post at the mouth of Columbia river, that the Ontario was despatched for the purpose of resuming our possession there, without giving notice of the expedition to Mr. Bagot and to his Government. Copies of these communications are herewith enclosed, from which it was concluded that no authorized English establishment existed at that place; and as they intimated no question whatever of the title of the United States to the settlement which existed before the late war, it did not occur that any such question had since arisen, which could make it an object of interest to Great Britain. You are authorized to add, that notice of the departure of the Ontario, and of the object of her voyage, would nevertheless have been given, but that the expedition was determined, and the vessel despatched, during the President's absence from the seat of Government the last season.

These explanations have already been given to Mr. Bagot, who has expressed himself entirely satisfied with them, and his conviction that they will be equally satisfactory to his Government. As it was not anticipated that any disposition existed in the British Government to start questions

of title with us on the borders of the South sea, we could have no possible motive for reserve or concealment with regard to the expedition of the Ontario. In suggesting these ideas to Lord Castlereagh, rather in conversation than in any more formal manner, it may be proper to remark the minuteness of the present interests, either to Great Britain or the United States, involved in this concern; and the unwillingness, for that reason, of this Government to include it among the objects of serious discussion with them. At the same time you might give him to understand, though not unless in a manner to avoid every thing offensive in the suggestion, that, from the nature of things, if in the course of future events it should ever become an object of serious importance to the United States, it can scarcely be supposed that Great Britain would find it useful or advisable to resist their claim to possession by systematic opposition. If the United States leave her in undisturbed enjoyment of all her holds upon Europe, Asia, and Africa, with all her actual possessions in this hemisphere, we may very fairly expect that she will not think it consistent either with a wise or a friendly policy to watch with eyes of jealousy and alarm every possibility of extension to our natural dominion in North America, which she can have no solid interest to prevent, until all possibility of her preventing it shall have vanished.

Extracts of a letter from R. Rush, Esq., Envoy Extraordinary and Minister Plenipotentiary of the United States at London, to the Secretary of State, dated

JULY 25, 1818.

Lord Castlereagh returned from Ireland sooner than was expected, having got back on the 14th of this month. On the 15th I wrote him a note, requesting an official interview, which he granted me on the 16th.

I began the conversation by affording the explanations embraced in your despatch No. 4, respecting the Ontario's voyage to the mouth of the river Columbia. In the course of them, I particularly dwelt, according to your instructions, upon the correspondence which took place between the Secretary of State and Mr. Baker soon after the peace, in which the latter never made a question as to the valid title of the United States, or intimated the existence of any authorized establishment at that post, on the part of Great Britain, before the war. His lordship said nothing in reply, though it appeared to me that the explanation was satisfactory to him, removing as it does all ground of complaint.

From Mr. Prevost to the Secretary of State.

MONTEREY, NEW CALIFORNIA,

November 11, 1818.

SIR: In conformity with mine of the 27th July, which I had the honor to address to your Department from Lima, I proceeded in His Britannic Majesty's sloop-of-war Blossom to the mouth of

the Columbia, and entered the river on the 1st of October following. A few days thereafter, to wit, on the 6th, as you will perceive by referring to a copy of the act of surrender, (marked A,) I received in the name, and on the part of the United States, the possession of the establishment at Fort George, made under the first article of the Treaty of Ghent, by Captain Hickey, of the royal navy, in compliance with the orders of the Prince Regent for that purpose, signified to him through the medium of the Earl Bathurst. The British flag was thereupon lowered, and that of the United States hoisted in its stead, where it now waves in token both of possession and of sovereignty.

The establishment, of which the annexed sketch (No. 1) will give you a correct idea, has been considerably extended and improved by the agents of the Northwest Company of Canada, who will continue to occupy and protect it under our flag, until it shall please the President to give orders for their removal. I will, however, suggest that, when this disposition shall take place, time ought to be granted in a ratio with the distance, to enable them to obtain the means of transporting the private property deposited there, consisting of dry goods, furs, and implements of war, to a large amount. Shortly after the ceremony and surrender, I received a note on this subject from Mr. Keith, the gentleman whose signature accompanies that of Captain Hickey, which, together with a copy of my answer, (No. 2,) is submitted for your inspection. A sense of justice would have dictated the assurances I have given him in reply; but I had a further motive, which was that of subsiding the apprehensions excited by the abrupt visit of the Ontario. It appeared to me prudent, in this view, to take no notice of the suggestion relative to a discussion of boundary, and, in answering, to avoid any intimation of immediate or of future removal, as either might have induced him to form a settlement elsewhere on the river, and thus give rise to collisions between the two Governments which may now be wholly avoided.

The bay is spacious, contains several anchoring places in a sufficient depth of water, and is by no means so difficult of ingress as has been represented. Those enjoying the exclusive commerce have probably cherished an impression so favorable to its continuance, growing out of the incomplete survey of Lieutenant Broughton, made under the orders of Vancouver, in 1792. It is true that there is a bar extending across the mouth of the river, at either extremity of which are, at times, appalling breakers; but it is equally true that it offers, at the lowest tides, a depth of twenty-one feet of water throughout a passage exempt from them of nearly a league in width. The Blossom, carrying more guns than the Ontario, encountering a change of wind while in the channel, was compelled to let go the anchor, and, when again weighed, to tack and beat in order to reach the harbor, yet found a greater depth, and met with no difficulty either then or on leaving the bay. The survey marked C may be relied on for its accuracy. The bearings, distances, and soundings, were taken by Captain Hickey, who was kind

enough to lend himself to the examination, and to furnish me with this result. It is the more interesting as it shows that, with the aid of buoys, the access to vessels of almost any tonnage may be rendered secure. In addition to this, it is susceptible of entire defence, because a ship, after passing the bar, in order to avoid the breaking of the sea on one of the banks, is obliged to bear up directly for the knoll forming the cape, at all times, to approach within a short distance of its base, and most frequently then to anchor. Thus, a small battery erected on this point, in conjunction with the surges on the opposite side, would so endanger the approach as to deter an enemy, however hardy, from the attempt.

This outlet, the only one between the thirty-eighth and fifty-third degrees of latitude, embraces the entire range of country from the ocean to the mountains, and its interior unites the advantage of a water communication throughout, by means of the many streams tributary to the Columbia; two of which disembogue opposite to each other, within twenty-five leagues of the port, are navigable, and nearly of equal magnitude with this beautiful river. The ocean teems with the otter, (*mustela*), the seal, and the whale; while the main land affords, in innumerable quantities, the common otter, (*musk*), the bear, the buffalo, and the whole variety of deer.

It has been observed by those exploring this coast that the climate to the southward of 53 degrees assumes a mildness unknown in the same latitude on the eastern side of the Continent. Without digressing to speculate upon the cause, I will merely state that such is particularly the fact in 46 degrees 16 minutes, the site of Fort George. The mercury during the Winter seldom descends below the freezing point; when it does so, it is rarely stationary for any number of days, and the severity of the season is more determined by the quantity of water than by its congelation. The rains usually commence with November, and continue to fall partially until the latter end of March or beginning of April. A benign Spring succeeds; and when the Summer heats obtain, they are so tempered by showers as seldom to suspend vegetation. I found it luxuriant on my arrival, and during a fortnight's stay experienced no change of weather to retard its course. The soil is good; all the cereal, gramina, and tuberos plants may be cultivated with advantage, and the waters abound in salmon, sturgeon, and other varieties of fish.

The natives, in appearance as well as in character, differ essentially from those with us. They are less in stature, more delicately formed, and singular in the shape of the head, which, in infancy, is compressed between two small plates of wood or metal, so as in its growth to obtain the semblance of a wedge. They are inquisitive, cheerful, sagacious, possess fewer of the vices attributed to the savage, and are less addicted to cruelties in war; scalping is unknown to them, and a prisoner suffers the infliction of no other punishment than that of becoming a slave to the captor; but as they neither sow nor reap, an ob-

server cannot easily discern in what the servitude consists. The wants of the one are supplied by his own address in the use of the bow and the spear, while those of the other require the same efforts and equal skill for their gratification.

The language on the side of the falls bears a strong analogy to that of Nootka, so much so that, with the aid of a Spanish vocabulary of the latter, accompanying the voyage of Valdes, I could, notwithstanding the imperfection in this mode of conveying and of obtaining sounds, express my wants and be perfectly understood. I met with several of the natives who had heretofore volunteered on board of some one of our vessels in their fur excursions, two of whom had acquired a sufficient knowledge of our language to speak it with some ease, and were extremely solicitous to embark with us.

I regret that I could not collect sufficient data upon which to ground an estimate of the furs gathered on the Columbia; it was impossible, for reasons that are obvious. Humboldt has undertaken to number those of the otter taken on the coast and shipped to China, of which he assigns five-sixths to the American; he may be correct in the quantity, but I doubt whether the proportion be quite so great, as it frequently happens that the English adventurer confides his stock to our countrymen in order to participate in the benefit of a market, from a direct intercourse with which he is excluded by the laws of his country.

Perhaps I have gone too much into detail; but it appeared to me that, by exhibiting the importance of the position only, I should not have fulfilled the object of the President; that it was equally incumbent upon me to present a view of the country, of its inhabitants, of its resources, of its approach, and of its means of defence. I shall now conclude with the relation of an occurrence which may and ought to influence the course to be adopted and pursued as to this station.

The speculations of Humboldt, his glowing descriptions of the soil and climate of this province, have probably given a new direction to the ambition of Russia, and determined its Emperor to the acquisition of empire in America. Until 1816 the settlements of this Power did not reach to the southward of 55°,* and were of no consideration, although dignified by them with the title of Russian America. In the commencement of that year two distinct establishments were made, of a different and of a more imposing character: the first at Atooi, one of the Sandwich islands; the other in this vicinity, within a few leagues of San Francisco, the most northerly possession of Spain, in 37° 56'. The sketch I subjoin, marked D, was procured from a member of the Government at this place; from whom I also learned that its augmentation has since become so considerable as to excite serious alarm. Two Russian ships left this on their way thither a few

days anterior to our arrival; the one having on board mechanics of every description, together with implements of husbandry. We passed sufficiently near the spot assigned to it to distinguish the coast with some precision, and ascertained that it was an open road—a circumstance that renders the position liable to many objections, if intended to be permanent; in other respects, the choice is judicious for an infant colony. It enjoys a climate still milder than that of Columbia, is environed by a beautiful country, and its proximity to an old settlement enables the Russian to partake of the numerous herds of black cattle and horses that have been there multiplying for the last fifty years. The port of St. Francis is one of the most convenient, extensive, and safe in the world, wholly without defence, and in the neighborhood of a feeble, diffused, and disaffected population. Under all these circumstances, may we not infer views to the early possession of this harbor, and ultimately to the sovereignty of entire California? Surely the growth of a race on these shores, scarcely emerged from the savage state, guided by a chief who seeks not to emancipate but to enthral, is an event to be deprecated—an event, the mere apprehension of which ought to excite the jealousies of the United States, so far, at least, as to induce the cautionary measure of preserving a station which may serve as a barrier to a northern aggrandizement.

I have not been able to gather other information respecting the settlement at Atooi than that of an assurance of its existence—a fact corroborated by the visit of the two ships to those islands in their route hither. The Russians are not yet such enterprising navigators as to augment sea risks by extending a voyage several thousand miles without an object. Such was the case in this instance, unless connected with the settlement, as they had sailed from Lima abundantly supplied a few weeks prior to my first visit to that city, in April last.

These islands yield the sandal wood, so much esteemed in China, and have been resorted to by our vessels for years past, not only in search of this valuable article, but of the necessary stock of fresh provisions to supply the crew during their cruise on the northwest coast. How far this intercourse may be affected hereafter by this encroachment, is also a subject for the consideration of the President.

I have taken the liberty to enclose a note marked E, of the authorities, Spanish as well as English, that have fallen under my view, illustrating the discovery of the Columbia by Mr. Gray, in 1791. Its subsequent occupation in 1811, by which the sovereignty of the United States was completed, to the exclusion of any European claimant, is a fact of which the surrender of the sole establishment on the river is conclusive evidence.

I have the honor to be, &c.

J. B. PREVOST.

A.

Act of surrender and acknowledgment.

In obedience to the commands of His Royal Highness the Prince Regent, signified in a des-

* Chart of the discoveries of Russian navigators, published by order of the Emperor in 1802; referred to by Humboldt, in his *View of New Spain*; translation, page 270, vol. 2. (Note.)

Great Britain and Russia—Northwest Coast.

patch from the right honorable Earl Bathurst, addressed to the partners or agents of the Northwest Company, bearing date 27th January, 1818, and in obedience to subsequent orders, dated the 26th July last, from William H. Sheriff, Esq., Captain of His Majesty's ship *Andromache*, we, the undersigned, do, in conformity to the first article of the Treaty of Ghent, restore to the Government of the United States, through its agent, J. B. Prevost, Esq., the settlement of Fort George, on the river Columbia.

Given under our hands, in triplicate, at Fort George, Columbia river, this 6th October, 1818.

F. HICKEY,

Captain of H. M. Ship Blossom.

JAMES KEITH,

Of the Northwest Company.

I do hereby acknowledge to have this day received, on behalf of the Government of the United States, the possession of the settlement designated above, in conformity to the first article of the Treaty of Ghent.

Given under my hand, in triplicate, at Fort George, Columbia river, this 6th October, 1818.

J. B. PREVOST,

Agent for the United States.

No. 1.

Mr. Keith to Mr. Prevost.

FORT GEORGE, COLUMBIA RIVER,
October 6, 1818.

SIR: Now that the restitution and the settlement have been made, and that the Northwest Company are still allowed to occupy it in the prosecution of their commercial pursuits, permit me to submit to you the following important queries, to which I request a candid and explicit reply: Whether or not you feel authorized, on behalf of the United States, to tender me any assurance, or to afford any security, that no abandonment or relinquishment of said settlement will be claimed by your Government in favor of any of its subjects, to the ejection and exclusion of said Northwest Company, prior to the final decision of the right of sovereignty to the country between our respective Governments? And pending such discussion, as also in the event of such sovereignty being confirmed to the United States, may the Northwest Company implicitly rely on the justice and equity of your Government, that adequate allowance will be made for any extension or amelioration of aforesaid settlement, or of the trade dependent thereon, of which circumstances may from time to time suggest the propriety? I have the honor, &c.

JAMES KEITH,

Acting for self and Northwest Co.

J. B. PREVOST, Esq.

No. 2.

FORT GEORGE, COLUMBIA,
October 6, 1818.

SIR: In answer to your note of this morning, I have the honor to state that the principal object

of the President in sending me thus far was to obtain such information of the place, of its access, and of its commercial importance, as might enable him to submit to the consideration of Congress measures for the protection and extension of the establishment. From hence you will perceive that, until the sense of the Government may be taken upon my report, any assurances I might offer to meet the wishes expressed by you would be as unauthorized as unavailing.

I, however, sir, have no hesitation in saying that should it hereafter comport with the views of the nation to foster the settlement, any claim of the Northwest Company, justified by the usages of nations, will be liquidated with great liberality; and that, should its policy induce a system of exclusion, it will never extend to your removal without sufficient notice to prevent loss and injury to the company.

I cannot take my leave, sir, without expressing my approbation of the manner in which an establishment so precarious has been managed, nor without offering a hope that the same judicious course may be pursued under the change of flag for its success, until the pleasure of the President can be known.

J. B. PREVOST.

JAMES KEITH, &c.

E.

Note and authorities.

Relacion del Viase Heclo por las Goletas Sutie y Mexicana, in 1792, published in 1802, page 157. Introduction to the same, page 95.

Chart accompanying the work, in which the mouth of the Columbia is stated only as an entrance "seen" by Hacata and Quadra, to whom the discovery is ascribed.

Maurelle, the pilot, who published an account of the voyage. This work has been translated by Barrington, and is referred to in the instructions to Perouse.

Vancouver, 1st volume, quarto edition, 210, 214, 215.

2d volume, 74, observations incorporated with the report of Lieutenant Broughton Mears, who also perceived indent, but could discover no entrance, and examined the northern point "Disappointment," which it still leaves.

The Chevalier de Poletica to the Secretary of State.

WASHINGTON, Jan. 30, [Feb. 11.] 1822.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the Emperor of all the Russias, in consequence of orders which have lately reached him, hastens herewith to transmit to Mr. Adams, Secretary of State in the Department of Foreign Affairs, a printed copy of the regulation adopted by the Russian American Company, and sanctioned by His Imperial Majesty, relative to foreign commerce in the waters bordering the establishments of the said company on the northwest coast of America.

The undersigned conceives it to be, moreover, his duty to inform Mr. Adams that the Imperial

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Government, in adopting the regulation, supposes that a foreign ship, which shall have sailed from a European port after the 1st of March, 1822, or from one of the ports of the United States after the 1st of July of the same year, cannot lawfully pretend ignorance of these new measures.

The undersigned eagerly embraces this occasion of offering to Mr. Adams the assurance of his high consideration.

PIERRE DE POLETICA.

Mr. ADAMS, *Secretary of State.*

Edict of His Imperial Majesty, Autocrat of all the Russians.

The Directing Senate maketh known unto all men:

Whereas, in an edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hand, it is thus expressed:

"Observing, from reports submitted to us, that the trade of our subjects on the Aleutian islands, and on the northwest coast of America, appertaining unto Russia, is subjected, because of secret and illicit traffic, to oppression and impediments; and finding that the principal cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile islands, we have deemed it necessary to determine these communications by specific regulations, which are hereto attached.

"In forwarding these regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution."

COUNT D. GURIEF,
Minister of Finances.

It is, therefore, decreed by the Directing Senate that His Imperial Majesty's edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

[The original is signed by the Directing Senate.]

Printed at St. Petersburg. In the Senate, September 7, 1821.

[On the original is written, in the handwriting of His Imperial Majesty, thus:]

Be it accordingly.

ALEXANDER.

KAMENNOY OSTROFF, *Sept. 4, 1821.*

Rules established for the limits of navigation and order of communication along the coast of the Eastern Siberia, the northwestern coast of America, and the Aleutian, Kurile, and other islands.

SEC. 1. The pursuits of commerce, whaling, and fishery, and of all other industry, on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Bhering's Strait to the fifty-first degree of northern latitude; also from the Aleutian islands to the east-

ern coast of Siberia, as well as along the Kurile islands from Bhering Strait to the south cape of the island of Urup, viz: to 45 degrees, 50 minutes northern latitude, are exclusively granted to Russian subjects.

SEC. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than a hundred Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

SEC. 3. An exception to this rule is to be made in favor of vessels carried thither by heavy gales, or real want of provisions, and unable to make any other shores but such as belong to Russia; in these cases they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly Governments, merely on discoveries, are likewise exempt from the foregoing rule, (section 2.) In this case, however, they must previously be provided with passports from the Russian Minister of the Navy.

SEC. 4. Foreign merchant ships which, for reasons stated in the foregoing rule, touch at any of the above-mentioned coasts, are obliged to endeavor to choose a place where Russians are settled, and to act as hereunder stated.

SEC. 5. On the arrival of a foreign merchant ship, wind and weather permitting, a pilot will meet her to appoint an anchoring place appropriated for the purpose. The captain who, notwithstanding this, anchors elsewhere without being able to assign a proper reason to the commander of the place, shall pay a fine of one hundred dollars.

SEC. 6. All rowing boats of foreign merchant vessels are obliged to land at one place appointed for them, where, in the daytime, a white flag is hung out, and at night a lantern, and where a clerk is to attend continually to prevent importing and exporting any articles or goods. Whoever lands at any other place, even without an intent of smuggling, shall pay a fine of fifty dollars; and if a person be discovered bringing any articles ashore, a fine of five hundred dollars is to be exacted, and the goods to be confiscated.

SEC. 7. The commanders of said vessels being in want of provisions, stores, &c., for the continuation of their voyage, are bound to apply to the commander of the place, who will appoint where these may be obtained, after which they may, without difficulty, send their boats there to procure all they want. Whosoever deviates from this rule shall pay a fine of one hundred dollars.

SEC. 8. If it be unavoidable, for the purpose of repairing or careening a foreign merchant ship, that she discharge the whole cargo, the master is obliged to ask the permission of the commander of the place. In this case the captain shall deliver to the commander an exact list of the nature and quality of the goods discharged. Every one who omits to report any part of the cargo will be suspected of smuggling, and shall pay a fine of one thousand dollars.

SEC. 9. All expenses incurred by these vessels during their stay in the Russian territories must

be paid in cash or bills of exchange. In case, however, the captains of these ships have no money on board, and nobody gives security for their bonds, the commander can, at their request, allow the sale of such articles, stores, or goods, required merely for defraying the above-stated expenses. These sales, however, can be made only to the company, and through the means of the commander, but must not exceed the expenses of the ships, under penalty of the cargo being seized, and a fine paid of one thousand dollars.

SEC. 10. As soon as said foreign merchant vessels are ready for their cargoes, stores, provisions, &c., they must immediately proceed to take them in; and after an examination, if they have loaded all the above-stated articles, and a written certificate of their not having left any thing behind, they are to set sail.

Such vessels as have not been unloaded, are likewise subjected to sail without the least delay, as soon as they are able to proceed to sea.

SEC. 11. It is prohibited to all commanders of said foreign vessels, commissioners, and others, whosoever they may be, to receive any articles, stores, or goods in those places where they will have landed, except in the case as per section 7, under penalty of seizure of their ship and cargo.

SEC. 12. It is prohibited to these foreign ships to receive on board, without especial permission of the commanders, any of the people in the service of the company, or of the foreigners living in the company's settlements.

Ships proved to have the intention of carrying off any person belonging to the colony shall be seized.

SEC. 13. Every purchase, sale, or barter, is prohibited betwixt a foreign merchant ship and people in the service of the company. This prohibition extends equally to those who are on shore and to those employed in the company's ships.

Any ship acting against this rule shall pay five times the value of the articles, stores, or goods, constituting this prohibited traffic.

SEC. 14. It is likewise interdicted to foreign ships to carry on any traffic or barter with the natives of the islands and of the northwest coast of America, in the whole extent here above mentioned. A ship convicted of this trade shall be confiscated.

SEC. 15. All articles, stores, and goods, found on shore in ports or harbors belonging to Russian subjects, (carrying on prohibited traffic,) or to foreign vessels, are to be seized.

SEC. 16. The foreign merchant ships lying in harbor, or in the roads, dare, under no pretence, send out their boats to vessels at sea, or to those already come in, until they have been spoken to and visited, according to the existing customs. Whenever a foreign vessel hoists a yellow flag, to announce an infectious disease being on board, or the symptoms of the same, or any other danger of which she wishes to be freed, every communication is interdicted until said flag is taken down. From this rule, however, are excepted persons appointed for the purpose, and whose boats are under the colors of the Russian American Company.

Any vessel acting contrary to this regulation shall pay a fine of five hundred dollars.

SEC. 17. No ballast may be thrown overboard but in such places as are appointed by the commanders. The transgressor is liable to a fine of five hundred dollars.

SEC. 18. To all foreign merchant ships, during their stay in anchoring places, harbors, or roads, it is prohibited to have their guns loaded either with balls or cartridges, under the risk of paying a fine of fifty dollars for each gun.

SEC. 19. No foreign merchant ship in port, or in the roads, or riding at anchor, may fire guns or muskets without previously informing the commander of the place or settlement, unless it be for pilots, signaling the same by the firing of one, two, or three guns, and hoisting her colors, as is customary in similar wants. In acting contrary thereto, she is subjected to a fine of one hundred dollars for each shot.

SEC. 20. On the arrival of a foreign ship in the harbor, or in the roads, a boat will immediately be sent to meet her, and to deliver to the captain a printed copy of these regulations, for which he must give receipt in a book destined for the purpose. He is further obliged to state in the book all information required of foreign vessels. All ships refusing to comply with these regulations dare not approach the harbor, roads, or any anchoring place.

SEC. 21. The captain of a foreign merchant ship, coming to anchor in a port, or in the roads, is obliged, on his arrival, to give a statement of the health of the ship's crew; and should, after this, a contagious illness be discovered on board of his vessel, he must immediately inform the commander of the place thereof. The vessel, according to circumstances, will be either sent off, or put under quarantine in a place appropriated for the purpose, when the crew may be cured without putting the inhabitants in danger of infection. Should the captain of such a ship conceal the circumstance, the same will be confiscated, with her whole cargo.

SEC. 22. The master of a vessel, at the request of the commander of a place, is obliged to produce a list of the whole crew and all the passengers; and, should he omit any, he shall pay a fine of one hundred dollars for every one left out.

SEC. 23. The captains are bound to keep their crews in strict order and proper behaviour on the coasts and in the ports, and likewise to prevent their trading or bartering with the company's people. They are answerable for the conduct of their sailors and other inferiors. Illicit trade carried on by sailors subjects the vessel to the same penalty as if done by the captain himself; because it were easy for the captains to carry on smuggling without punishment, and justify themselves by throwing the fault on the sailors. Therefore, every article found upon sailors, which they could not hide in their pockets, or under their clothes, to screen from their superiors, sold or brought on shore, will be considered as contraband from the ship, and is subject to the prescribed fine.

SEC. 24. Foreign men-of-war shall likewise

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comply with the above-stated regulations for the merchant ships, to maintain the rights and benefit of the company. In case of opposition, complaints will be made to their Governments.

SEC. 25. In case a ship of the Russian Imperial navy, or one belonging to the Russian American Company, meet a foreign vessel on the above-stated coasts, in harbors or roads within the before-mentioned limits, and the commander find grounds, by the present regulation, that the ship be liable to seizure, he is to act as follows:

SEC. 26. The commander of a Russian vessel, suspecting a foreign to be liable to confiscation, must inquire and search the same, and, finding her guilty, take possession of her. Should the foreign vessel resist, he is to employ, first, persuasion, then threats, and at last force; endeavoring, however, at all events, to do this with as much reserve as possible. If the foreign vessel employ force against force, then he shall consider the same as an evident enemy, and force her to surrender according to the naval laws.

SEC. 27. After getting every thing in order and safety on board the foreign vessel, the commander of the Russian ship, or the officer sent by him, shall demand the journal of the captured vessel, and on the spot shall note down in the same that, on such a day, month, and year, at such an hour, and in such a place, he met such and such a foreign vessel; and shall give a brief account of the circumstance, pursuit, and, finally of the seizure. After signing the same, he shall desire the captain of the captured vessel to confirm the same in his own handwriting.

Should he, however, refuse to sign the same, the Russian officer is to repeat his summons in presence of all the officers; and if, on this, it be again refused, and nobody will sign in lieu of the captain, he is then to add this circumstance, signed by himself.

After this arrangement, the journal, list of the crew, passports, invoices, accounts, and all further papers, respecting the views and pursuits of the voyage of the vessel, shall be put up in one parcel, as well as all private papers, viz: the journals of the officers; letters, &c., and sealed with the seals of the Russian officer, and those of the captain and first officer of the foreign vessel. This packet shall remain unsealed with the commander of the Russian vessel until their arrival in the port of St. Peter and Paul, where it shall be deposited in the court, as mentioned in section 33. Besides this, every thing else must be sealed by the Russian officer and the foreign captain that is not requisite for the continuation of the voyage to the port of St. Peter and Paul, excepting the effects for immediate and sole use of the ship's crew, which shall not be withheld from them.

SEC. 28. Having thus fixed all means of precaution, the officer sent to arrest the foreign vessel shall instantly make his report to his chief, and await his orders.

SEC. 29. Thus should, by any cause stated in the second, eleventh, twelfth, and twenty-first sections of these regulations, a foreign vessel be subjected to confiscation in any port near the settle-

ments of the Russian American Company, the commander of that settlement is obliged either to ask the assistance of the Russian man-of-war, if there be any, and the commander of which, on receipt of a written request, is obliged to arrest the vessel, and use all the precautions prescribed in the foregoing article; or, if there be no Russian man-of-war in the harbor or its neighborhood, and the commander of the settlement find that he and his people can arrest the vessel by themselves, he then is to act according to the twenty-sixth, twenty-seventh, and twenty-eighth sections; and, putting ashore the captain, and every means of getting the vessel away, he must endeavor, as soon as possible, to give information of this event, either to the Governor of the colonies of the Russian American Company, or the commander of the Imperial man-of-war, if it be known where she lies.

SEC. 30. When, in consequence of such a report, the Governor of the colonies shall send a company's vessel, or a Government vessel arriving, then the commander of the place shall deliver up the vessel seized; and all belonging to her, and shall report respecting his reasons for confiscating the vessel.

SEC. 31. The commander of the vessel taking charge of the seizure, per inventory, shall examine immediately into all circumstances mentioned, and compare it with the accounts of the commander of the settlement, who will give every elucidation required.

SEC. 32. All vessels detained by Russian men-of-war are ordered by these regulations to be brought to the port of St. Peter and Paul, where the sentence is to be passed on them by a court established for adjudging such cases.

SEC. 33. This court, under the presidency of the commander of Kamtschatka, shall consist of the three senior officers under him, and of the commissioner of the Russian American company.

SEC. 34. As soon as a Russian vessel, bringing into the port of St. Peter and Paul a foreign vessel arrested by her, has come to anchor in the place assigned her, the commander of her is immediately to repair to the commander of Kamtschatka, stating briefly what vessel he has brought in, the number of the crew and of the sick, specifying their diseases, and reporting likewise whether the vessel has sufficient victuals, and what goods, guns, and other arms, powder, &c., are on board.

SEC. 35. The commander of Kamtschatka, on receiving this report, will order two officers and a sufficient number of men on board the detained vessel.

SEC. 36. These two officers, together with the officers who brought in the detained ship, when on board, are to summon the master, and two of his mates, or men in command next to him, inspect all the seals put on the vessel, and then, taking them off, begin immediately to make an accurate list of all the effects belonging to the vessel.

SEC. 37. This list is to be signed by all the officers on both sides who were present in drawing it up. The commander of Kamtschatka is to use all possible endeavors to secure from embezzlement

or damage all effects belonging to the detained vessel.

SEC. 38. The crew of the vessel are then to be sent ashore to such places as shall be appointed by the commander of Kamtschatka, and remain there until the close of the investigation.

SEC. 39. The commander of the Russian vessel is obliged, in the course of two days after his arrival at the port of St. Peter and Paul, to make a minute representation to the commander of Kamtschatka of all that shall have happened at the detention of the foreign vessel brought in by him, and to deliver said vessel, together with the sealed packet containing her papers, expressed in section 27.

SEC. 40. If the Russian vessel that brought into the port of St. Peter and Paul a foreign vessel cannot, for reasons, remain there until the close of the investigation, but be obliged to proceed to sea in a very short time, the commander, in order not to detain her, shall use all possible despatch, by bringing forward the investigation of such points as may require the presence of the Russian vessel.

SEC. 41. Having settled everything on board the arrested vessel, and landed the crew, the court shall immediately open the session, and endeavor to ascertain as soon as possible the solution of the inquiry, "Whether the vessel be lawfully arrested or not?"

SEC. 42. In order to ascertain this, the following proofs shall be substantiated:

1st. That the vessel was met with within the boundaries prescribed in the second section of these regulations, and that her having been within said limits was not occasioned by reasons stated in section 3.

2d. That the vessel is a lawful prize by virtue of the sections 2, 11, 12, 14, and 21 of these regulations, and section — of the instructions to the commander of the Russian man-of-war.

SEC. 43. In order to decide either case, the court is to inspect all documents presented, and, tracing on one part all proofs of guilt, and on the other all doubts which might clear the foreign vessel, summon the commanding officer of the Russian vessel to give all additional information deemed needful; and completing thus all circumstances condemning the foreign vessel, the court shall draw up a clear statement of the reasons of her condemnation.

SEC. 44. Should the court, in making out said statement, find that the foreign vessel has been arrested without sufficient cause, said court, on passing the sentence, is to determine the damages suffered by such detention, and to furnish both parties with a certified copy of this resolution.

SEC. 45. In the course of two days both parties shall declare whether they are satisfied with the decision of the court or not, and in the latter case (should it happen) assign it in writing.

SEC. 46. Should both parties be satisfied with the decision of the court, then the commander of Kamtschatka is to release immediately the detained vessel, returning every thing to the master according to the inventory, along with the adjudged

damages, exacting them from whomsoever is to pay the same.

SEC. 47. If, on the contrary, the court receive on the third day an appeal from its decision, it is bound to take that appeal into immediate consideration, and, finding it just, to change its decision; if not, to confirm the same, and make it known to the parties a second time. After this, no representations shall be admitted, and both parties shall be summoned before the court, which will allow them to make their protest in writing, and will then state all the reasons why the sentence passed should be carried into execution.

SEC. 48. If the court find by the indictment that the vessel has been lawfully detained, then the master of the foreign vessel, or the two oldest in command under him, shall be summoned, and the reasons of their detention made known to them, giving them a certified copy of the condemnation.

SEC. 49. The court is to receive within three days, and no later, the representations of the master; and if he do not present the same within the time limited, the court summoning him, with two of his crew, notifies that his silence is received as a mark of compliance, and that the condemnation is just.

SEC. 50. In this case the court comes to its final decision, which, on the following day, is communicated to the whole crew of the foreign vessel, who shall sign, all and every one, that such sentence has been made known to them; after which, the commander of Kamtschatka is to carry the sentence of the court into execution, as will be explained hereafter.

SEC. 51. Should, however, the master deliver within the limited time his protest, then the court, examining it with all possible impartiality, shall call for all further explanations; and, having inserted the whole into the journal of the court, shall pass a final sentence, and pronounce it as stated in section 47.

SEC. 52. If by the sentence of the court the arrested vessel be released, and adjudged to receive damages for her detention, and if the vessel has been arrested by any of the company's officers, and the damages are not above five thousand rubles, the commander of Kamtschatka shall demand immediate payment of said sum from the officer of the Russian American Company; but if the damages exceed that sum, he is to notify it to the company's office, and give to the foreign master a certificate; but the money cannot be paid by the company otherwise than after the inspection and resolution of its court of directors. If, on the other hand, the foreign vessel has been detained unlawfully by a Russian man-of-war, the commander of Kamtschatka is to pay the adjudged damages (not exceeding the sum of five thousand rubles) out of any Government sum, and to report in order to incash it from the guilty; but if the damages should exceed the sum of five thousand rubles, the commander of Kamtschatka is to furnish a certificate for the receipt of that money after the regulation and confirmation of the Russian Government.

SEC. 53. The reimbursement of such damages

as may have been incurred by unlawful detention shall be exacted from the commander, and all officers of the man-of-war who, having been called by the commander to a council, shall have given their opinion that such a ship ought to be detained.

SEC. 54. As soon as a foreign ship is sentenced to be confiscated, the commander of Kamtschatka is to make due arrangements for transporting the crew to Ochotzk, and from thence to any of the ports of the Baltic, in order to enable every one of them to reach his own country. With the confiscated ship and cargo he is to act as with a prize taken in time of war.

SEC. 55. After this, the commander of Kamtschatka shall order a committee to value the vessel and her cargo. This committee is to be composed of one member appointed by the commander of Kamtschatka, one by the commander of the man-of-war, and a third by the Russian American Company.

SEC. 56. These commissioners are to make up a specified list and valuation, according to the following rules:

1st. All provisions, rigging, iron, powder, and arms shall be put down at such prices as they cost Government there.

2d. All merchandises which might be used in Kamtschatka and the company's colonies, and which are carried there at times from Russia, shall be valued at their prices then existing.

3d. All goods which are not imported into these places from Russia, but are wanted there, shall be valued like goods brought from Russia, being the nearest to them, and in proportion to their wants.

4th. All goods not in use in Kamtschatka or the colonies, shall be sent to Irkutsk, and sold at public auction by the proper authorities.

SEC. 57. The said commissioners shall present their valuation to the commander of Kamtschatka for his approbation; who, in case of not finding the same exact, shall return it with his remarks, and shall appoint other officers to inspect such articles as may appear unfairly valued.

SEC. 58. If the commissioners hereafter continue in their opinion, and the commander of Kamtschatka find it impossible to agree thereto, he shall provisionally consent, and leave the final decision to Government.

SEC. 59. According to this valuation, the commander of Kamtschatka shall mark for the use of Government all those articles which he thinks are wanted; the remainder is left at the disposal of the officers of the ship, or of the Russian American Company. The seized vessel shall be valued by the court, and the valuation sent immediately to the Minister of the Navy, with a report whether such a vessel is wanted for Government service or not.

SEC. 60. The whole sum of valuation of the confiscated vessel and cargo is to be divided in the following manner: the expenses necessary to forward the ship's crew to one of the ports on the Baltic are to be deducted, and the remaining sum divided, if the vessel has been taken by the Russian American Company's officers, and carried to the port of St. Peter and Paul by a ship of said com-

pany, without the interference of a man-of-war, into five parts, of which one goes to the Government, and the remaining four-fifths to the American Company; if the vessel be taken in any of the company's settlements by the company's officers, but brought to the port of St. Peter and Paul by a man-of-war, after deducting one-fifth for Government, two-fifths are to belong to the crew of the man-of-war, and the remaining two-fifths to the Russian American Company; and, finally, if such foreign vessel be detained by men-of-war only, without the assistance of the company's officers, then, after deducting one-fifth for Government, the remainder is left to the officers of the men-of-war.

But if a vessel be taken by the conjoint forces of a man-of-war and a company's vessel, then the prize shall be divided between them, in proportion to their strength, regulating the same according to the number of guns.

SEC. 61. The sum coming to the officers of the man-of-war shall be divided according to the rules for dividing prizes in time of war. In all cases, officers who had a share in seizing foreign vessels convicted of the intention of infringing the privileges most graciously granted to the Russian American Company may expect to receive tokens of His Imperial Majesty's approbation, especially when, after deducting the expenses for conveying the crew, their part in the prize money could prove but trifling.

SEC. 62. If a foreign vessel, detained by a Russian, being under the command of a Russian officer, should be cast away before reaching the port of St. Peter and Paul, the following principles shall be observed:

If the foreign vessel alone be lost, and the Russian accompanying her arrive at the port of St. Peter and Paul, then the court acts according to the foregoing rules, to determine whether that vessel was lawfully seized. In this case Government takes upon itself the expenses of conveying to a port of the Baltic such of the ship's crew as were saved. But if such vessel should not be proved to have been detained lawfully, then, independent of those expenses, the ship shall be valued, and such valuation forwarded to Government for the payment of what may be deemed just. At the same time, investigations shall be made on the loss of the vessel; and the officer that had the command (if saved) is to be tried according to the maritime rules and regulations.

SEC. 63. That the commander of Kamtschatka is bound to make a special report to the Governor General of Siberia respecting every circumstance happening to foreign vessels, annexing copies of all documents, journals, and sentences of the court, and of all papers relating thereunto.

D. GURIEF, *Minister of Finances.*

The Secretary of State to Mr. Poletica.

DEPARTMENT OF STATE,
Washington, February 25, 1822.

SIR: I have had the honor of receiving your note of the 11th instant, enclosing a printed copy

of the regulations adopted by the Russian American Company, and sanctioned by His Imperial Majesty, relating to the commerce of foreigners in the waters bordering on the establishments of that company upon the northwest coast of America.

I am directed by the President of the United States to inform you that he has seen with surprise, in this edict, the assertion of a territorial claim on the part of Russia, extending to the fifty-first degree of north latitude on this continent, and a regulation interdicting to all commercial vessels other than Russian, upon the penalty of seizure and confiscation, the approach upon the high seas within one hundred Italian miles of the shores to which that claim is made to apply. The relations of the United States with His Imperial Majesty have always been of the most friendly character: and it is the earnest desire of this Government to preserve them in that state. It was expected, before any act which should define the boundary between the territories of the United States and Russia on this continent, that the same would have been arranged by treaty between the parties. To exclude the vessels of our citizens from the shore, beyond the ordinary distance to which the territorial jurisdiction extends, has excited still greater surprise.

This ordinance affects so deeply the rights of the United States and of their citizens, that I am instructed to inquire whether you are authorized to give explanations of the ground of right, upon principles generally recognised by the laws and usages of nations, which can warrant the claims and regulations contained in it.

I avail myself of this occasion to assure you of my distinguished consideration.

JOHN QUINCY ADAMS.

The CHEVALIER DE POLETICA,
Envoy Extraordinary, &c.

The Chevalier de Poletica to the Secretary of State.

WASHINGTON, February 28, 1822.

SIR: I received two days since the letter which you did me the honor to address to me on the same day, by order of the President of the United States, in answer to my note of the 11th current, by which I discharged the orders of my Government in communicating to you the new regulation adopted by the Russian American Company, and sanctioned by His Majesty the Emperor, my august sovereign, on the 4th [16th] of September, 1821, relative to foreign commerce in the waters which border upon the establishments of the said company on the northwest coast of America.

Readily yielding, sir, to the desire expressed by you in your letter of knowing the rights and principles upon which are founded the determinate limits of the Russian possessions on the northwest coast of America, from Behring's strait to the fifty-first degree of north latitude, I am happy to fulfil this task by only calling your attention to the following historical facts, the authenticity of which cannot be contested:

The first discoveries of the Russians on the northwest continent of America go back to the

time of the Emperor Peter I. They belong to the attempt made towards the end of the reign of this great monarch to find a passage from the icy sea into the Pacific ocean.

In 1728 the celebrated Captain Behring made his first voyage. The recital of his discoveries attracted the attention of the Government, and the Empress Anne intrusted to Captain Behring (1741) a new expedition in these same latitudes. She sent with him the academicians *Gmelin, Delela dela Crayere, Muller, Steller, Fisher, Krasilnicoff, Kracheninicoff*, and others; and the first chart of these countries which is known was the result of their labors, published in 1758. Besides the strait which bears the name of the chief of this expedition, he discovered a great part of the islands which are found between the two continents; Cape or Mount St. Elias, which still bears his name upon all the charts, was so called by Captain Behring, who discovered it on the day of the feast of the saint; and his second, Captain Tchiricoff, pushed his discoveries as far as the forty-ninth degree of north latitude.

The first private expeditions undertaken upon the northwest coast of America go back as far as the year 1743.

In 1763 the Russian establishments had already extended as far as the island of Kodiak, (or Kich-tak.) In 1778 Cook found them at Ounalashka, and some Russian inscriptions at Kodiak. Vancouver saw the Russian establishment in the bay of Kinai. In fine, Captains Mirs, Portlock, and La Perouse, unanimously attest the existence of Russian establishments in these latitudes.

If the Imperial Government had at the time published the discoveries made by the Russian navigators after Behring and Tchiricoff, (viz. Chlodiloff, Screbreancoff, Krassilnicoff, Paycoff, Poushareff, Lazareff, Medwedeff, Solowieff, Lewasheff, Krenitsin, and others,) no one could refuse to Russia the right of first discovery, nor could even any one deny her that of first occupation.

Moreover, when D. Jose Martinez was sent, in 1789, by the Court of Madrid, to form an establishment in Vancouver's island, and to remove foreigners from thence under the pretext that all that coast belonged to Spain, he gave not the least disturbance to the Russian colonies and navigators; yet the Spanish Government was not ignorant of their existence, for this very Martinez had visited them the year before. The report which Captain Malespina made of the results of his voyage proves that the Spaniards very well knew of the Russian colonies, and in this very report it is seen that the Court of Madrid acknowledged that its possessions upon the coast of the Pacific ocean ought not to extend to the north of Cape Blanc, taken from the point of Trinity, situated under 42 degrees 50 minutes of north latitude.

When, in 1799, the Emperor Paul I. granted to the present American Company its first charter, he gave it the exclusive possession of the northwest coast of America which belonged to Russia, from the fifty-fifth degree of north latitude to Behring's strait. He permitted them to extend their discoveries to the south, and there to form estab-

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lishments, provided they did not encroach upon the territory occupied by other Powers.

This act, when made public, excited no claim on the part of other cabinets, not even on that of Madrid, which confirms that it did not extend its pretensions to the sixtieth degree.

When the Government of the United States treated with Spain for the cession of a part of the northwest coast, it was able to acquire, by the Treaty of Washington, the right to all that belonged to the Spaniards north of the forty-second degree of latitude; but this treaty says nothing positive concerning the northern boundary of this cession, because, in fact, Spain well knew that she could not say that the coast as far as the sixtieth degree belonged to her.

From this faithful exposition of known facts, it is easy, sir, as it appears to me, to draw the conclusion that the rights of Russia to the extent of the northwest coast, specified in the regulation of the Russian American Company, rest upon the three bases required by the general law of nations and immemorial usage among nations—that is, upon the title of first discovery; upon the title of first occupation; and, in the last place, upon that which results from a peaceable and uncontested possession of more than half a century—an epoch, consequently, several years anterior to that when the United States took their place among independent nations.

It is, moreover, evident, that if the right of the possession of a certain extent of the northwest coast of America, claimed by the United States, only devolves upon them in virtue of the Treaty of Washington, of 22d of February, 1819, (and I believe it would be difficult to make good any other title,) this treaty could not confer upon the American Government any right of claim against the limits assigned to the Russian possessions upon the same coast, because Spain herself had never pretended to similar right.

The Imperial Government, in assigning for limits to the Russian possessions of the northwest coast of America, on the one side Bhering's strait, and on the other the fifty-first degree of north latitude, has only made a moderate use of an incontestable right; since the Russian navigators, who were the first to explore that part of the American continent, in 1741, pushed their discovery as far as the forty-ninth degree of north latitude. The fifty-first degree, therefore, is no more than a mean point between the Russian establishment of New Archangel, situated under the fifty-seventh degree, and the American colony at the mouth of the Columbia, which is found under the forty-sixth degree of the same latitude.

All these considerations united have concurred in inspiring the Imperial Government with an entire conviction that, in the last arrangements adopted in Russia relative to her possessions on the northwest coast, the legitimate right of no foreign Power has been infringed. In this conviction, the Emperor, my august sovereign, has judged that his good right, and the obligation imposed by Providence upon him to protect with all his power the interests of his subjects, sufficiently

justified the measures last taken by His Imperial Majesty in favor of the Russian American Company, without its being necessary to clothe them with the sanction of treaties.

I shall be more succinct, sir, in the exposition of the motives which determined the Imperial Government to prohibit foreign vessels from approaching the northwest coast of America belonging to Russia within the distance of at least one hundred Italian miles. This measure, however severe it may at first view appear, is, after all, but a measure of prevention. It is exclusively directed against the culpable enterprises of foreign adventurers, who, not content with exercising upon the coasts above mentioned an illicit trade very prejudicial to the rights reserved entirely to the Russian American Company, take upon them besides to furnish arms and ammunition to the natives in the Russian possessions in America, exciting them likewise in every manner to resistance and revolt against the authorities there established.

The American Government doubtless recollects that the irregular conduct of these adventurers, the majority of whom was composed of American citizens, has been the object of the most pressing remonstrances on the part of Russia to the Federal Government from the time that diplomatic missions were organized between the two countries. These remonstrances, repeated at different times, remain constantly without effect, and the inconveniences to which they ought to bring a remedy continue to increase.

The Imperial Government, respecting the intentions of the American Government, has always abstained from attributing the ill success of its remonstrances to any other motives than those which flow (if I may be allowed the expression) from the very nature of the institutions which govern the national affairs of the American confederation. But the high opinion which the Emperor has always entertained of the rectitude of the American Government cannot exempt him from the care which his sense of justice towards his own subjects imposes upon him. Pacific means not having brought any alleviation to the just grievances of the Russian American Company against foreign navigators in the waters which environ their establishments on the northwest coast of America, the Imperial Government saw itself under the necessity of having recourse to the means of coercion, and of measuring the rigor according to the inveterate character of the evil to which it wished to put a stop. Yet it is easy to discover, on examining closely the last regulation of the Russian American Company, that no spirit of hostility had any thing to do with its formation. The most minute precautions have been taken in it to prevent abuses of authority on the part of commanders of Russian cruisers appointed for the execution of said regulation. At the same time, it has not been neglected to give all the timely publicity necessary to put those on their guard against whom the measure is aimed.

Its action, therefore, can only reach the foreign vessels, which, in spite of the notification, will expose themselves to seizure by infringing upon

the line marked out in the regulation. The Government flatters itself that these cases will be very rare; if all remain as at present appears, not one.

I ought, in the last place, to request you to consider, sir, that the Russian possessions in the Pacific ocean extend, on the northwest coast of America, from Behring's strait to the fifty-first degree of north latitude, and on the opposite side of Asia, and the islands adjacent, from the same strait to the forty-fifth degree. The extent of sea, of which these possessions form the limits, comprehends all the conditions which are ordinarily attached to *shut seas*, (*mers fermées*,) and the Russian Government might, consequently, judge itself authorized to exercise upon this sea the right of sovereignty, and especially that of entirely interdicting the entrance of foreigners. But it preferred only asserting its essential rights, without taking any advantage of localities.

The Emperor, my august sovereign, sets a very high value upon the maintenance of the relations of amity and good understanding which have till now subsisted between the two countries. The dispositions of His Imperial Majesty in this regard have never failed appearing at all times when an occasion has presented itself in the political relations of the United States with the European Powers; and surely, in the midst of a general peace, Russia does not think of aiming a blow at the maritime interests of the United States—she who has constantly respected them in those difficult circumstances in which Europe has been seen to be placed in the latter times, and the influence of which the United States have been unable to avert.

I have the honor to be, &c.

PIERRE DE POLETICA.

The Secretary of State to Mr. De Poletica.

DEPARTMENT OF STATE,
Washington, March 30, 1822.

SIR: I have had the honor of receiving your letter of the 28th ultimo, which has been submitted to the consideration of the President of the United States.

From the deduction which it contains of the grounds upon which articles of regulation of the Russian American Company have now, for the first time, extended the claim of Russia on the northwest coast of America to the fifty-first degree of north latitude, its only foundation appears to be the existence of the small settlement of Novo Archangelsk, situated, not on the American continent, but upon a small island in latitude 57°; and the principle upon which you state that this claim is now advanced is, that the fifty-first degree is equidistant from that settlement of Novo Archangelsk and the establishment of the United States at the mouth of Columbia river. But, from the same statement, it appears that, in the year 1799, the limits prescribed by the Emperor Paul to the Russian American Company were fixed at the fifty-fifth degree of latitude, and that, in assuming now the latitude 51°, a new preten-

sion is asserted, to which no settlement made since the year 1799 has given the color of a sanction.

This pretension is to be considered not only with reference to the question of territorial right, but also to that prohibition to the vessels of other nations, including those of the United States, to approach within one hundred Italian miles of the coasts. From the period of the existence of the United States as an independent nation, their vessels have freely navigated those seas, and the right to navigate them is a part of that independence.

With regard to the suggestion that the Russian Government might have justified the exercise of sovereignty over the Pacific ocean as a close sea, because it claims territory both on its American and Asiatic shores, it may suffice to say that the distance from shore to shore on this sea, in latitude 51° north, is not less than ninety degrees of longitude, or four thousand miles.

As little can the United States accede to the justice of the reason assigned for the prohibition above mentioned. The right of the citizens of the United States to hold commerce with the aboriginal natives of the northwest coast of America, without the territorial jurisdiction of other nations, even in arms and munitions of war, is as clear and indisputable as that of navigating the seas. That right has never been exercised in a spirit unfriendly to Russia; and although general complaints have occasionally been made on the subject of this commerce by some of your predecessors, no specific ground of charge has ever been alleged by them of any transaction in it which the United States were, by the ordinary laws and usages of nations, bound either to restrain or to punish. Had any such charge been made, it would have received the most pointed attention of this Government, with the sincerest and firmest disposition to perform every act and obligation of justice to yours which could have been required. I am commanded by the President of the United States to assure you that this disposition will continue to be entertained, together with the earnest desire that the most harmonious relations between the two countries may be preserved.

Relying upon the assurance in your note of similar dispositions reciprocally entertained by His Imperial Majesty towards the United States, the President is persuaded that the citizens of this Union will remain unmolested in the prosecution of their lawful commerce, and that no effect will be given to an interdiction manifestly incompatible with their rights.

I am happy to renew the assurances of my distinguished consideration.

JOHN QUINCY ADAMS.

The CHEVALIER DE POLETICA.

The Chevalier de Poletica to the Secretary of State.

WASHINGTON, March 21,
[April 2,] 1822.

SIR: I had the honor yesterday to receive the letter which you were pleased to address to me, dated 30th March last; and, not being authorized to continue the discussion to which it refers, I find

Norway—Commercial Reciprocity.

myself under the necessity of taking the contents of that letter *ad referendum*, reserving myself to communicate it to my Government as soon as possible.

In the mean time, I shall take the liberty of submitting to your consideration some observations which have been suggested to me by certain passages in your letter which require particular notice.

In the first official letter which I had the honor of addressing to you, dated 16th [28th] February last, I thought I had succeeded in clearly demonstrating that the rights of Russia to the possession of a certain extent of the northwest coast of America, as far as these rights can be rendered legitimate by the first discovery, the first occupation, and a possession not contested for more than half a century—that these rights, I say, go back to times considerably earlier than the reign of the Emperor Paul I.

When this sovereign granted, in 1799, to the Russian American Company its first charter of incorporation, there had never been a question about abandoning to that company the right of sovereignty over one determinate portion of the northwest coast of America in all its plenitude. The question was purely and simply of conceding to the said company a part of the sovereignty, or rather certain exclusive privileges of commerce, and it is in this view that the act of 1799, to which you refer, sir, fixed the limits of the operations of the Russian American Company.

The rights of sovereignty belonging to Russia could lose nothing of their local extent in consequence of the concessions made to that company in the reign of the Emperor Paul. That these rights extended, in the opinion of the Imperial Government, farther south than the fifty-fifth degree of latitude, appears evident from the structure of the third article of the act of incorporation, which authorizes the company to form establishments south of the fifty-fifth degree of north latitude.

But what will dispel even the shadow of doubt in this regard is the authentic fact that, in 1789, the Spanish packet *St. Charles*, commanded by Captain Haro, found, in the latitude 48° and 49°, Russian establishments to the number of eight, consisting, in the whole, of twenty families, and four hundred and sixty-two individuals. These were the descendants of the companions of Captain Tchirikoff, who was supposed till then to have perished.

With such titles justifying the rights claimed by Russia, you yourself, sir, will agree that it is perfectly immaterial whether the Russian establishment at Novo Archangelsk be small or large. If the rights of territorial possession were measured according to the dimensions of the points occupied, what would become of those of the United States upon a very considerable extent of the same northwest coast? for the only American establishment ever yet known is certainly very inferior in stability to that of Russia at Novo Archangelsk.

In the same manner the great extent of the Pacific ocean at the fifty-first degree of latitude cannot invalidate the right which Russia may have of considering that part of the ocean as close.

But as the Imperial Government has not thought fit to take advantage of that right, all further discussion on this subject would be idle.

As to the right claimed for the citizens of the United States of trading with the natives of the country of the northwest coast of America, without the limits of the jurisdiction belonging to Russia, the Imperial Government will not certainly think of limiting it; and still less of attacking it there. But I cannot dissemble, sir, that this same trade beyond the fifty-first degree will meet with difficulties and inconveniences, for which the American owners will only have to accuse their own imprudence after the publicity which has been given to the measures taken by the Imperial Government for maintaining the rights of the Russian American Company in their absolute integrity.

I shall not finish this letter without repeating to you, sir, the very positive assurance which I have already had the honor once of expressing to you, that, in every case where the American Government shall judge it necessary to make explanations to that of the Emperor, the President of the United States may rest assured that these explanations will be always attended to by the Emperor, my august sovereign, with the most friendly, and, consequently, the most conciliatory dispositions.

Be pleased, sir, &c.

DE POLETICA.

NORWAY—COMMERCIAL RECIPROCITY.

[Transmitted to the House, May 2, 1822.]

To the House of Representatives of the United States:

In the Message to both Houses of Congress at the commencement of their present session, it was mentioned that the Government of Norway had issued an ordinance for admitting the vessels of the United States and their cargoes into the ports of that kingdom upon the payment of no other or higher duties than are paid by Norwegian vessels, of whatever articles the said cargoes may consist, and from whatever ports the vessels laden with them may come.

In communicating this ordinance to the Government of the United States, that of Norway has requested the benefit of a similar and reciprocal provision for the vessels of Norway and their cargoes which may enter the ports of the United States.

This provision being within the competency only of the legislative authority of Congress, I communicate to them, herewith, copies of the communications received from the Norwegian Government in relation to the subject, and recommend the same to their consideration.

JAMES MONROE.

WASHINGTON, May 1, 1822.

The Count d'Engestrom to Mr. Hughes.

STOCKHOLM, January 25, 1821.

By the express order of the King, the undersigned, Minister of State and of Foreign Affairs,

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has the honor to inform Mr. Hughes, Chargé d'affaires of the United States of North America, that, hereafter, vessels belonging to citizens of the United States, as well as their cargoes, will be subject, in the ports of the kingdom of Norway, to no other or higher duties of entry or clearance than those payable by the national vessels and their cargoes; so that every sort of distinction between Norwegian and American vessels may cease, and that neither the place from which a vessel arrives, nor the place of her destination, may be any cause of exception from the general rule. The cargoes may consist of the productions of the soil, or of the industry of such country, whatever it may be.

In requesting Mr. Hughes to be pleased to communicate the contents of this note to his Government, the undersigned embraces this opportunity of renewing to Mr. Hughes the assurances of his most distinguished consideration.

COUNT D'ENGESTROM.

Baron de Stackelberg to the Secretary of State.

WASHINGTON, July 11, 1821.

The undersigned, Chargé d'Affaires of His Majesty the King of Sweden and of Norway, has the honor to address, officially, his Excellency the Secretary of State of the United States, to inquire if, in virtue of the commercial regulations existing in the United States, the Norwegian commerce will enjoy in the ports of the said States the same advantages and immunities which have been lately granted in the ports of Norway to the American commerce.

The undersigned takes this occasion to renew to the Secretary of State of the United States the assurance of his high consideration, &c.

STACKELBERG.

The Secretary of State to Baron de Stackelberg.

DEPARTMENT OF STATE,
Washington, July 23, 1821.

The Secretary of State, in reference to the note of Baron de Stackelberg of the 11th instant, has the honor of informing him that, by an act of Congress of 3d March, 1815, "so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposes a discriminating duty of tonnage between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States, is repealed, so far as the same respects the produce or manufacture of the nation to which such foreign ships or vessels may belong; such repeal to take effect in favor of any foreign nation, whenever the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, have been abolished."

And this act, by a subsequent act of Congress of 3d March, 1819, will cease and expire on the 1st day of January, 1824.

From the copy of a note from His Excellency Count d'Engestrom to Mr. Hughes, of the 25th of January last, it appears that all discriminating or countervailing duties in the kingdom of Norway, so far as they operated to the disadvantage of the United States, have been abolished; and if it be desired by the Baron de Stackelberg that a proclamation from the President should issue, declaring Norwegian vessels entitled to the advantages set forth in the act of Congress of 3d March, 1815, it will immediately be issued. But the Baron will observe that this act is not so extensive as the ordinance for the kingdom of Norway, notified by Count d'Engestrom, inasmuch as the latter expressly provides that "the cargoes may consist of the productions of the soil, or of the industry of any and all countries, without exception," and as it is without limitation of time.

The Secretary of State requests the Baron de Stackelberg to accept the assurance of his distinguished consideration.

JOHN QUINCY ADAMS.

The BARON DE STACKELBERG, Chargé, &c.

Baron de Stackelberg to the Secretary of State.

WASHINGTON, August 16, 1821.

The undersigned, Chargé d'Affaires of His Majesty the King of Sweden and of Norway, has had the honor to receive the note of his Excellency the Secretary of State of the United States, dated the 23d of last month, the substance of which is, that the Government of the United States cannot grant to the Norwegian commerce in their ports the same advantages and immunities which have been granted by the Swedish and Norwegian Government in the ports of Norway to the American commerce, which advantages are stipulated in a note, dated the 25th of January last, addressed by his Excellency the Count d'Engestrom, Minister of State and of Foreign Affairs of His Majesty the King of Sweden and of Norway, to the Chargé d'Affaires of the United States at Stockholm; according to which, if the undersigned desire it, the President of the United States has been pleased to consent to issue his proclamation declaring the Norwegian commerce to have a right to enjoy the advantages granted by the act of Congress of the 3d of March, 1815.

In consideration whereof, and in obedience to the orders of the King, his master, the undersigned ought instantly to demand a perfect reciprocity on the part of the United States towards the Norwegian commerce; yet, as the laws of the United States do not appear to have given an extent equivalent to that which has been granted to American commerce in Norway, and until an arrangement can be made upon this subject, it is his duty, officially, to require for the Norwegian commerce the advantage contained in the act of Congress of 3d March, 1815, as well as the act of 1st March, 1817, which says: "After the thirtieth day of September next, no goods, wares, or merchandise, shall be imported into the United States from any foreign port or place, except in vessels

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of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture; or from which such goods, wares, or merchandise, can only be, or most usually are, first shipped for transportation: *Provided, nevertheless,* That this regulation shall not extend to the vessels of any foreign nation which has not adopted, and which shall not adopt, a similar regulation:" consequently, as the American commerce can enter into the ports of Norway with cargoes of the productions of the soil or of manufactures of their country, the undersigned considers the act of navigation in question as being reciprocally applicable to the Norwegian commerce in the ports of the United States.

The undersigned likewise proposes, officially, to the Government of the United States, in order to establish a perfect reciprocity in the commerce between the two countries, to pass a law by which the Norwegian commerce may enjoy in the ports of the said States the same privileges and advantages as have been mentioned in the note of his Excellency the Count d'Engestrom in favor of the American commerce in the ports of the Kingdom of Norway.

The undersigned prays the Secretary of State to be pleased to lay this note before the President of the United States.

The undersigned has the honor to be, &c.
STACKELBERG.

The Secretary of State to Baron de Stackelberg.

DEPARTMENT OF STATE,
Washington, Aug. 21, 1821.

SIR: I have the honor of enclosing, herewith, a copy of a proclamation of the President of the United States, declaring the vessels of Norway to be entitled in the ports of the United States to the benefit of the advantages prescribed by the act of Congress of 3d March, 1815. They will also be entitled, without further proceeding, to those prescribed by the act of 1st March, 1817, as I had the honor of explaining verbally to you its purport.

I pray you, sir, to accept, &c.

JOHN Q. ADAMS.

The BARON DE STACKELBERG,
Chargé d'Affaires, &c.

GREAT BRITAIN—DUTIES ON IRON.

[Transmitted to Congress, May 3, 1822.]

To the House of Representatives of the United States:

I transmit, herewith, to Congress copies of letters received at the Department of State from the Minister of Great Britain, on the subject of the duties discriminating between imported rolled and hammered iron.

I recommend them particularly to the consideration of Congress, believing that although there may be ground for controversy with regard to the application of the engagements of the treaty to the

case, yet a liberal construction of those engagements would be compatible at once with a conciliatory and a judicious policy.

JAMES MONROE.

WASHINGTON, May 1, 1822.

Mr. Antrobus to Mr. Adams.

WASHINGTON, Nov. 22, 1819.

SIR: I have the honor to inform you, that I have been instructed by His Majesty's Government again to bring under your notice the difference of duties levied in the ports of this country on British and other foreign iron in bars and bolts.

It is stipulated by the commercial convention between Great Britain and the United States that articles the growth, produce, and manufacture of Great Britain shall pay no higher duties on importation into the United States than like articles the growth, produce, and manufacture of any other foreign countries.

Mr. Bagot, in a letter of the 18th November, 1816, addressed to Mr. Monroe, at that time Secretary for the Department of State, to which I beg leave to refer you, has clearly pointed out that iron manufactured in Great Britain by rolling ought to be considered a like article to iron manufactured by hammering, both in Sweden and Russia; and I feel confident it is only necessary for me to call your attention to this similarity in the state of the manufacture of British and other foreign iron in bars and bolts, to decide the Government of the United States to adopt measures for the admission to importation of this article on terms more consistent with the spirit of the treaty of commerce existing between the two nations.

I have the honor to be, &c.

G. CRAWFURD ANTROBUS.

Hon. J. Q. ADAMS, *Secretary of State.*

Mr. Antrobus to Mr. Adams.

WASHINGTON, May 1, 1820.

SIR: In the month of November of the year 1816, Mr. Bagot had the honor of addressing to Mr. Monroe, at that time Secretary of State, a note calling his attention to a provision of an act of Congress passed on the 27th of April of that year, entitled "An act to regulate the duties on imports and tonnage," imposing on the importation into the United States of iron in bars and bolts, manufactured by rolling, a duty equal to that paid on anchors; whereas, by it, iron in bars and bolts, manufactured by hammering, was subject to a lower duty.

On the 22d November last, I had the honor to address a note to you on the same subject, requesting the adoption by the American Government of such measures as would give to the British merchant the advantages secured to him by the second article of the treaty of commerce between Great Britain and the United States, namely, "that no higher duties shall be imposed on the importation into the United States of any articles the growth, produce, or manufacture of His Bri-

tannic Majesty's territories in Europe than are or shall be payable on the like articles being the growth, produce, or manufacture of any other foreign countries."

As it is understood that the modification of the tariff thus sought for can only be effected by an act of the Legislature, and as it is believed that the present session of that body is now drawing to a close, I take the liberty of again bringing this matter under your notice and of expressing a hope that the present high rate of duty on the importation of rolled iron will no longer be allowed to exist, to the prejudice of the British manufacturer, and, it would seem, contrary to the spirit of the commercial treaty.

I have the honor to be, &c.

G. CRAWFORD ANTROBUS.

Hon. J. Q. ADAMS, *Secretary of State.*

Mr. Canning to Mr. Adams.

WASHINGTON, *March 31, 1821.*

SIR: It is in obedience to instructions which I have lately received from His Majesty's Government, that I have the honor to recall your attention to a subject of considerable interest, on which Mr. Bagot and Mr. Antrobus have already had occasion, respectively, to open a correspondence with your office—I mean the discrimination established by Congress in the duties on imported iron manufactured by rolling or hammering.

I abstain, for the present, from troubling you with any additional argument in support of the general principles asserted by Mr. Bagot; but as there is reason to suppose that some erroneous notions have prevailed with respect to the process of rolling iron as employed in the British manufactories, it is confidently hoped that an authentic statement of the real process will suffice to remove any objections which the Government of the United States may still entertain to an equalization of the duties in question.

The pig iron is first purified or refined in what is called a finery; during which stage of the process it loses in weight about $2\frac{1}{2}$ cwt. per ton.

The metal thus refined is taken to the puddling furnace, from which, after it has undergone the operation of puddling, it is conveyed in balls, each weighing about sixty pounds, to the slabbing rolls, and there rolled into a slab or rough bar.

The bar is then divided into several pieces, which are placed in piles of three or four pieces together, and, after being again heated in a reverberating furnace, are rolled into what is called a merchant bar.

In these two stages there is a further waste of about 5 cwt. in the ton.

The metal, after being refined in the puddling furnace, is sometimes placed under a helve, or iron hammer of three or four tons weight, and shingled or hammered into what is termed a half bloom, which is subsequently cut into pieces and rolled into a merchant bar, in the same way as the piled slabs. The quality of the manufactured metals, and the cost of the operation, are very nearly the same in both cases.

To these facts, which are derived on authority to all appearance unquestionable, from the principal iron manufactories in England, it may be added that, even the pig iron employed there is probably of a superior quality, owing to the great care with which the dross is drawn off from the ore.

Persuaded that the preceding statement will receive at your hands an attentive and liberal consideration, I beg, sir, that you will accept the assurances with which I have the honor to be, &c.

STRATFORD CANNING.

Hon. J. Q. ADAMS, *Sec'y of State.*

Mr. Canning to Mr. Adams.

WASHINGTON, *Nov. 26, 1821.*

SIR: On the 31st of March I did myself the honor of writing to you with reference to the discriminating duties laid by Congress on imported rolled and hammered iron. It is under the special instructions of my Government that I now return to a subject which has been repeatedly pressed upon your notice, in full persuasion that, sooner or later, the Legislature of the United States would recognise the propriety and justice of repealing the exceptionable duty.

I do not feel myself at liberty to draw any inference unfavorable to this expectation from the silence with which you received my former letter. I abstained on that occasion from going at large into the merits of the question, conceiving that an exposition of certain facts, capable of being verified, would be sufficient until the meeting of Congress should furnish a fit occasion for examining the whole subject in a more complete and deliberate manner.

You will remember, sir, that the facts which I then stated, and to which I again solicit your attention, were calculated chiefly to remove the erroneous impressions entertained by some persons in this country with respect to the real nature of British rolled iron, and the process of that manufacture. It had been asserted that, in rolling iron according to the practice of Great Britain, the metal was only twice heated, and so rapidly converted into bars as not to allow of its acquiring those qualities which are supposed to be imparted to it by the more laborious operation of hammering. It now appears, from the testimony of many respectable individuals acquainted with this important branch of industry, that the iron is heated no less than three times; that it is refined with such effect as to lose $7\frac{1}{2}$ cwt. per ton in passing from the state of pig iron to that of merchant bars; and, further, that it is cut into pieces after the first rolling, and piled so as to cross the grain when again heated and rolled.

In the qualities of rolled, as in those of hammered iron, there may be an occasional difference resulting from the nature of the ores employed in its composition. The British ironmasters use a great variety of ores, the different mixtures and combinations of which have, doubtless, a considerable effect in producing a better or an inferior article. But to suppose that any difference is

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made in the quality or manufacture of British iron when destined for the foreign market, other than when it is kept for home consumption, is an error which cannot be met with too distinct and positive a denial.

This notion, groundless as it is, has, however, been brought forward with others equally erroneous, to prevent an equalization of the duties on imported iron. It has even been alleged that, while rolled iron is exported from Great Britain for the use of foreign countries, the British import large quantities of hammered iron from the north of Europe for their own use; and that, in shipbuilding, this latter article, owing to its superior quality, is indispensable.

In reply to these assertions, I appeal with confidence to the accounts of British and foreign bar iron employed in Great Britain at three successive periods within the last sixteen years. In 1806, in 1814, and in 1820, the respective quantities of the former were 101,877, 137,365, and 136,642; and those of foreign bar iron were 27,411, 11,365, and 6,242. To confirm the results suggested by this statement, it may be added that in Ireland, where a strong prejudice is known to have once prevailed in favor of foreign iron, the consumption, which, in 1807, was 5,690 of British, and 3,229 of foreign, was, in the year 1820, 474 of the latter, and no less than 13,073, of the former.

For the manufacture of steel, and for that alone, the Baltic iron has some advantage over British; and whatever quantity of it is imported into Great Britain is either converted into steel, (in which way it is at present almost exclusively used,) or re-exported to those countries, where the nature and properties of British rolled iron are as yet imperfectly understood.

Concerning the particular point, of shipbuilding, the abstract which follows of the respective quantities of British and foreign iron, employed at different times by His Majesty's Navy Board, must of itself carry conviction to every impartial mind:

Years.	Foreign.	British.
1806	- 457	- 1,343
1810	- 289	- 1,688
1815	- 82	- 1,743
1820	- 51	- 1,824

The truth is, that, except for making steel, any superior fitness for which is clearly an accident of nature, and not the effect of hammering, English bar iron is at least equal to that of Sweden and Russia. It is used throughout Great Britain in the most important constructions—in her manufactories, dock-yards, and military establishments. It is prepared exactly in the same manner for exportation as for domestic consumption. It is never finished by a single rolling, except at a very few works, where the metal has been previously formed by hammering. It rarely happens, indeed, that the ironmaster knows, at the time of manufacturing, for which market the iron is destined; and when he is apprized of this circumstance, a sense of his own interest, the interest of the trade, would alone restrain him from sending an inferior manufacture to the foreign market.

It is, in short, the greatest of delusions to imagine that the consumers of iron are interested in giving a preference to the process of hammering over that of rolling. The Baltic manufacturers have, doubtless, their reasons for adhering to their former practice; but so far from their deriving any claim to superiority from that circumstance, it is well known to persons familiar with the trade that their iron would be improved rather than deteriorated by the application of the rolling machine. This being the case, it would be absurd to defend the discriminating duty on the ground of its preventing the manufacture of rolled iron in the northern countries of Europe.

Even in the counter-statements which have been made upon this subject, it is admitted, not only that the ores of England may be equal to those of other countries, but also that the process of rolling only requires to be repeated in order to place it upon a level with that of hammering. Allow me, sir, to remark, in reference to this admission, that, in the present state of your legislative enactments, the British iron imported into the United States might pass under the roller any number of times, without being relieved, on that account, from the pressure of which I complain.

The difference of value or cost at which the rolled and hammered iron may be prepared for sale can surely present no argument in favor of the discriminating duties. That difference, whatever it may be, is a natural result of labor-saving machinery; it is the just reward of ingenuity employed with success in the service of mankind. Science and inventive genius are peculiar to no soil; all nations have an interest in their progress; and to grudge them a fair remuneration would be no less unworthy of the character than foreign to the views of an enlightened Legislature.

I have now, sir, replied, and I trust conclusively, to such parts of the explanatory statement which you communicated to Mr. Antrobus in your letter dated the 31st of May, 1820, as were grounded (how justly I leave to your candor) on the principle of expediency. It remains for me to take a more comprehensive view of the case, as involving, in my belief, a breach of agreement, unintentional no doubt, but not therefore less prejudicial to His Majesty as a contracting party, nor calling the less for a seasonable amendment.

By the second article of the convention of commerce subsisting between the two countries, it is declared that "no higher or other duties shall be imposed on the importation into the United States of any articles the growth, produce, or manufacture of His Britannic Majesty's territories in Europe than are or shall be payable on the like articles being the growth, produce, or manufacture of any other foreign country." To secure certain stipulated advantages reciprocally to both the contracting parties was the general object of the convention; to secure to the produce and manufactures of Great Britain a fair unshackled competition in the markets of the United States with all articles of a similar nature imported from other foreign countries, is the plain, indisputable object of this particular clause. But how can these objects be

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considered as fully or adequately effected while British bar iron is made to pay on its importation into the United States double the amount of duty levied on the same articles when imported from Sweden and Russia? I am aware of the distinction which has been drawn between rolled and hammered iron, and of the assertion, founded on that distinction, that, so long as all importations of hammered, and all importations of rolled iron are subject, respectively, to the same rate of duty, Great Britain has no right to complain. But Great Britain being the sole exporter of rolled iron, the discriminating duties do in fact operate to her prejudice; and, in point of principle, it will not be difficult to show that the articles in question are truly and essentially like articles, such as cannot, with any color of reason, be excluded from the benefit of the treaty.

You will readily admit, sir, that like articles, in the sense of the convention, must necessarily be such as are similar to each other in their leading and characteristic properties. On any other supposition, the clause in question is an idle form of words, and, contrary to the very end and purpose of the treaty, a door would be opened to arbitrary interpretation in one of its principal provisions. Now, the process or mechanical operation by which an article is manufactured can surely never be reckoned among its properties. Any difference of use or quality resulting from the mode of manufacture may, indeed, constitute a fair ground of distinction; but there is every reason to believe that no such difference exists in the present instance. It has been shown, on the contrary, that, for all the ulterior purposes to which bar iron, as such, is applicable, the rolled is equally good with the hammered; that both the one and the other are sent to market in the same stage of manufacture, and that the only difference between them is one of a retrospective nature, not affecting the identity of their present state, but relating solely to the process by which they were brought to the same point.

To borrow an illustration from language—two words of similar meaning, in common acceptance, would surely not be deemed the less synonymous because they might be traced to different roots, or had passed through different modes of formation.

I further entreat you, sir, to observe with what facility the same distinction may be extended to other articles of commerce. Even the chief staple of your Southern States might, upon the same principle, be discriminated in British ports from the cotton of Brazil or the Levant, for no other reason than because it had been prepared by Mr. Whitney's ingenious and useful machinery. Examples bearing upon either party might easily be multiplied; I have taken this because it is the most obvious. In fact, the same natural productions are common to so many different countries, while the means of improving them are varied according to the vast diversity of local resources, that, even of those articles which barely rank as manufactures, few might not be brought within range of the same distinction which is now ap-

plied (unwarrantably, I think) to bar iron. That a latitude of interpretation, thus tending to nullify one of the principal clauses of the treaty, should have been contemplated by those who framed it, is utterly inconceivable. Yet this, sir, is the conclusion to which we must come, if it be admitted that rolled and hammered bar iron are not *like articles*—an admission which, taking the fair and natural meaning of that phrase, would surely be equivalent to saying that what is bar iron, when hammered, is not bar iron when rolled.

It is with regret, sir, that I have found it necessary to take up so much of your time on this subject; but I feel persuaded that you will appreciate its importance, and that it will receive from the American Government an early and equitable revisal, to the end of relieving, by law, the importations of British rolled iron from the present discriminating duty, and thereby fulfilling the obligations of the commercial treaty.

I embrace this opportunity, sir, to repeat to you the assurance of my perfect consideration.

STRATFORD CANNING.

JONATHAN RUSSELL—TREATY OF GHENT.

[Communicated to the House, May 7, 1822.]

To the House of Representatives:

In compliance with the resolution of the House of Representatives, of the 7th of May, requesting the President of the United States "to communicate to that House the letter of Jonathan Russell, Esq., referred to in his Message of the 4th instant, together with such communications as he may have received relative thereto, from any of the other Ministers of the United States who negotiated the Treaty of Ghent," I herewith transmit a report from the Secretary of State, with the documents called for by that resolution.

JAMES MONROE.

WASHINGTON, May 7, 1822.

STATE DEPARTMENT, Washington, May 7, 1822.

The Secretary of State has the honor of transmitting to the President of the United States his remarks upon the paper deposited at the Department of State on the 22d of last month, by Jonathan Russell, late one of the Plenipotentiaries of the United States, at the negotiation of Ghent, to be communicated to the House of Representatives, as the letter called for by their resolution of the 19th of that month; and the Secretary of State respectfully requests that the President would transmit to the House of Representatives these remarks, together with the above mentioned communication of Mr. Russell, on the renewal of the call therefor by the House.

JOHN QUINCY ADAMS.

Mr. Russell to the Secretary of State.—Private.

PARIS, February 11, 1815.

SIR: In conformity with the intimation contained in my letter of the 25th of December, I now

have the honor to state to you the reasons which induced me to differ from a majority of my colleagues on the expediency of offering an article confirming the British right to the navigation of the Mississippi, and the right of the American people to take and cure fish in certain places within the British jurisdiction.

The proposition of such an article appeared to be inconsistent with our reasoning to prove its absolute inutility. According to this reasoning, no new stipulation was any more necessary, on the subject of such an article, than a new stipulation for the recognition of the sovereignty and independence of the United States.

The article proposed appeared also to be inconsistent with our instructions, as interpreted by us, which forbade us to suffer our right to the fisheries to be brought into discussion; for it could not be believed that we were left free to stipulate on a subject which we were restrained from discussing, and that an argument, and not an agreement, was to be avoided. If our construction was indeed correct, it might not, perhaps, be difficult to show that we have not, in fact, completely refrained from the interdicted discussion.

At any rate, the proposal of the article in question was objectionable, inasmuch as it was incompatible with the principles asserted by a majority of the mission, and with the construction which this majority had adopted on that part of our instructions which related to the fisheries. If the majority were correct in these principles, and in this construction, it became us to act accordingly; if they were not correct, still it was unnecessary to add inconsistency to error.

I freely confess, however, that I did not accord with the majority, either in their view of the treaty of 1783, whence they derived their principles, or of our instructions; and that my great objection to proposing the article did not rise from an anxiety to reconcile our conduct with our reasoning and declarations.

I could not believe that the independence of the United States was derived from the treaty of 1783; that the recognition of that independence, by Great Britain, gave to this treaty any peculiar character, or that such character, supposing it existed, would necessarily render this treaty absolutely inseparable in its provisions, and make it one entire and indivisible whole, equally imperishable in all its parts, by any change which might occur in the relations between the contracting parties.

The independence of the United States rests upon those fundamental principles set forth and acted on by the American Congress, in the declaration of July, 1776, and not on any British grant in the treaty of 1783, and its era is dated accordingly.

The treaty of 1783 was merely a treaty of peace, and therefore subject to the same rules of construction as all other compacts of this nature. The recognition of the independence of the United States could not well have given to it a peculiar character, and excepted it from the operation of these rules. Such a recognition, expressed or implied, is always indispensable on the part of every na-

tion with whom we form any treaty whatsoever. France, in the treaty of alliance, long before the year 1783, not only expressly recognised, but engaged effectually to maintain, this independence; and yet this treaty, so far from being considered as possessing any mysterious peculiarity, by which its existence was perpetuated, has, even without war, and although part of it contained words of perpetuity, and was unexecuted, long since entirely terminated.

Had the recognition of our independence by Great Britain given to the treaty of 1783 any peculiar character, which it did not, still that character could have properly extended to those provisions only which affected that independence. All those general rights, for instance, of jurisdiction, which appertained to the United States, in their quality as a nation, might, so far as that treaty was declaratory of them, have been embraced by such peculiarity, without necessarily extending its influence to mere special commercial liberties and privileges, or to provisions long since executed, not indispensably connected with national sovereignty, or necessarily resulting from it.

The liberty to take and cure fish, within the exclusive jurisdiction of Great Britain, was certainly not necessary to perfect the jurisdiction of the United States; and there is no reason to believe that such a liberty was intended to be raised to an equality with the general right of fishing within the common jurisdiction of all nations, which accrued to us as a member of the great national family. On the contrary, the distinction between the special liberty and the general right appears to have been well understood by the American Ministers who negotiated the treaty of 1783, and to have been clearly marked by the very import of the terms which they employed. It would evidently have been unwise in them, however ingenious it may be in us, to exalt such a privilege to the rank of a sovereign right, and thereby to have assumed the unnecessary and inconvenient obligation of considering such a liberty to be an indispensable condition of our national existence, and thus rendering that existence as precarious as the liberty itself. They could not have considered a privilege, which they expressly made to depend, to a very considerable extent, for its continuance, on events and private interests, as partaking of the character and entitled to the duration of the inherent properties of sovereignty. The settlement of the shores might, at any time, have been effected by the policy of the British Government, and would have made the assent of British subjects, under the influence of that policy, necessary to the continuance of a very considerable portion of that liberty. They could not have meant thus to place, within the control of a foreign Government and its subjects, an integral part, as we now affect to consider this privilege, of our national rights.

It is from this view of the subject that I have been constrained to believe that there was nothing in the treaty of 1783 which could, essentially, distinguish it from ordinary treaties, or rescue it, on account of any peculiarity of character, from the

jura belli, or from the operation of those events on which the continuation or termination of such treaties depends. I was, in like manner, compelled to believe, if any such peculiarity belonged to those provisions, in that treaty, which had an immediate connexion with our independence, that it did not necessarily affect the nature of the whole treaty, or attach to a privilege which had no analogy to such provisions, or any relation to that independence.

I know not, indeed, any treaty, or any article of a treaty, whatever may have been the subject to which it related, or the terms in which it was expressed, that has survived a war between the parties, without being especially renewed, by reference or recital, in the succeeding treaty of peace. I cannot, indeed, conceive of the possibility of such a treaty or such an article; for, however clear and strong the stipulations for perpetuity might be, these stipulations themselves would follow the fate of ordinary unexecuted engagements, and require, after a war, the declared assent of the parties for their revival.

We appear, in fact, not to have had an unequalled confidence in our construction of the treaty of 1783, or to have been willing to rest exclusively on its peculiar character our title to any of the rights mentioned in it, and much less our title to the fishing liberty in question. If hostilities could not affect that treaty, or abrogate its provisions, why did we permit the boundaries assigned by it to be brought into discussion, or stipulate for a restitution of all places taken from us during the present war? If such restitution was secured by the mere operation of the treaty of 1783, why did we discover any solicitude for the *status ante bellum*, and not resist the principle *uti possidetis* on that ground?

With regard to the fishing privilege, we distinctly stated to you, in our letter of the 21st of December, that, "at the time of the treaty of 1783, it was no new grant, we having always before that time enjoyed it," and thus endeavored to derive our title to it from prescription. A title, derived from immemorial usage, antecedent to 1783, could not well owe its origin or its validity to a compact concluded at that time; and we could, therefore, in this view of the subject, correctly say that this privilege is no new grant; that is, that our right to the exercise of it was totally independent of such compact. If we were well founded, however, in the assertion of our prescriptive title, it was quite unnecessary to attempt to give a kind of charmed existence to the treaty of 1783, and to extend its undefinable influence to every article of which it was composed, merely to preserve that title, which we declared to be in no way derived from it, and which had existed, and of course could exist, without it.

It was rather unfortunate, too, for our argument against a severance of the provisions of that treaty, that we should have discovered, ourselves, a radical difference between them, making the fishing privilege depend on immemorial usage, and of course distinct in its nature and origin from the rights resulting from our independence.

We, indeed, throw some obscurity over this subject when we declare to you that this privilege was always enjoyed by us before the treaty of 1783; thence inferring that it was not granted by that treaty, and in the same sentence and from the same fact, appear also to infer, that it was not to be forfeited by war any more than any other of the rights of our independence, making it thus one of these rights, and of course, according to our doctrine, dependant on that treaty. There might have been nothing incomprehensible in this mode of reasoning had the treaty recognised this privilege to be derived from prescription, and confirmed it on that ground. The treaty has, however, not the slightest allusion to the past, in reference to this privilege, but regards it only with a view to the future. The treaty, therefore, cannot be construed as supporting a pre-existing title, but as containing a grant entirely new. If we claim, therefore, under the treaty, we must renounce prescription, and if we claim from prescription, we can derive no aid from the treaty. If the treaty be imperishable in all its parts, the fishing privilege remains unimpaired without a recurrence to immemorial usage; and if our title to it be well founded on immemorial usage, the treaty may perish without affecting it. To have endeavored to support it on both grounds implies that we had not entire confidence in either, and to have proposed a new article, indicates a distrust of both.

It is not, as I conceive, difficult to show that we cannot, indeed, derive a better title to this fishing privilege from prescription than from any indestructible quality of the treaty of 1783.

Prescription appears to me to be inapplicable to the parties and to the subject, and to be defective both in fact and effect. As to the parties, the immemorial enjoyment of a privilege within British jurisdiction, by British subjects, the inhabitants of British colonies, could not well be considered as evidence of a title to that privilege claimed by the citizens of an independent republic, residing within the exclusive jurisdiction of that republic.

The people of the United States, as such, could have claimed no special privilege within the dominions of any foreign Power from immemorial usage, in 1783, when the longest duration of their own existence in that quality was little more, at the utmost, than the brief period of seven years, which is surely not beyond the memory of man, (*ultra memoriam hominis*.) The people of the United States had never, in fact, during that period, enjoyed the fishing privilege a moment, being effectually prevented therefrom by the existing state of hostilities. Nor could the inhabitants of the colonies originally constituting the United States, even in their colonial condition, acquire against their sovereign any right from long usage or mere lapse of time, (*nullum tempus regi occurrit*.) The British sovereign was always competent to regulate and restrain his colonies in their commerce and intercourse with each other, whenever and however he might think proper; and had he forbidden his subjects in the province of Massachusetts to fish, and dry and cure fish, in the bays, harbors, and creeks of Labrador, which, by the way, had

not immemorially belonged to him, it is not to be imagined that they would have conceived themselves discharged from the obligation of submitting on account of any pretended right from immemorial usage. The fishing privilege, therefore, enjoyed by British subjects within British jurisdiction, could give no permanent and independent right to those subjects themselves, and, *a fortiori*, no such right to the citizens of the United States, claiming under a different estate and in a different capacity. Great Britain might, indeed, as well prescribe for the prerogatives of her sovereignty over us, as we for any of the privileges which we enjoyed as her subjects.

I do not think it necessary to inquire how far the practice of the people of Massachusetts was the practice of the whole original thirteen United States, or of the United States now, including Louisiana, or how far the immemorial usage of the people of Boston can establish a prescriptive right in the people of New Orleans. I trust I have said enough to show that prescription is inapplicable to the parties. It is, also, I conceive, inapplicable to the subject.

Had the United States, as an independent nation, enjoyed, from time immemorial, the fishing privilege in question, still, from the nature of this privilege, no prescriptive right could have thence been established. A right to fish, or to trade, or to do any other act or thing within the exclusive jurisdiction of a foreign State, is a simple power, a right of mere ability, (*jus mera facultatis*,) depending on the will of such State, and is consequently imprescriptible. An independent title can be derived only from treaty.

I conceive, therefore, that our claim to the fishing privilege, from immemorial usage, is not only unsupported by the fact, but cannot, in effect, result from such usage.

I have, from this view of the subject, been led to conclude, that the treaty of 1783, in relation to the fishing liberty, is abrogated by the war; that this liberty is totally destitute of support from prescription; and that we are, consequently, left without any title to it whatsoever. For I cannot prevail upon myself to seek for such a title in the relative situation of the parties, at the time of negotiating the treaty of 1783, and contend, according to the insinuation contained in our letter to you of the 21st of December, that the jurisdiction of Great Britain over the colonies, assigned to her in America, was a grant from the United States, and that the United States, in making this grant, reserved to themselves the privilege in question. Such a pretension, however lofty, is so inconsistent with the circumstances of the case, and with any sober construction which can be given to that treaty, that I shall, I trust, be excused from seriously examining its validity.

Having thus stated some of the reasons which induced me to differ in opinion from a majority of my colleagues, relative to the character of the treaty of 1783, as well as with regard to every other foundation on which they were disposed to rest our title to the fishing privilege, I shall now proceed to explain the causes which influenced me

to dissent from them in the interpretation of our instructions. These instructions forbid us to permit our rights to the trade beyond the Cape of Good Hope, to the fisheries, and to Louisiana, to be brought into discussion. I conceived that this prohibition extended to the general rights only, which affected our sovereignty, and resulted from it, and not to mere special liberties and privileges which had no relation to that sovereignty, either as to its nature or extent.

The right relating to the trade beyond the Cape of Good Hope, was the right which belonged to us as an independent nation, in common with all other independent nations, and not the permission of trading to those parts of the East Indies which were within the exclusive jurisdiction of Great Britain. In like manner the right to the fisheries, contemplated by our instructions, was, I conceived, the right common to all nations, to use the open sea for fishing as well as for navigation, and not to the liberty to fish and cure fish within the territorial limits of any foreign State. The right to Louisiana, which was not to be brought into discussion, was the right to the empire and domain of that region, and not to the right of excluding Great Britain from the navigation of the Mississippi.

How far we conformed to this instruction, with regard to the general right to Louisiana, it is not necessary for me here to inquire; but certainly the majority believed themselves permitted to offer a very explicit proposition with regard to the navigation of its principal river. I believed, with them, that we were so permitted, and that we were likewise permitted to offer a proposition relative to the fishing liberty, and, had the occasion required it, to make proposals concerning the trade to the British East Indies. I was persuaded that treating relative to these privileges, or discussing the obligation or expediency of granting or withholding them, respectively, violated in no way our instructions, or affected the general rights which we were forbidden to bring into discussion. Considering, therefore, the fishing liberty to be entirely at an end without a new stipulation for its revival, and believing that we were entirely free to discuss the terms and conditions of such a stipulation, I did not object to the article proposed by us because any article on the subject was unnecessary or contrary to our instructions; but I objected specially to that article because, conceding in it the free navigation of the Mississippi, we offered, in my estimation, for the fishing privilege, a price much above its value.

In no view of the subject could I discover any analogy between the two objects; and the only reason for connecting them, and making them mutual equivalents for each other, appeared to be because they were both found in the treaty of 1783.

If that treaty was abrogated by the war, (as I consider it to have been,) any connexion between its parts must have ceased, and the liberty of navigating the Mississippi by British subjects must, at least, be completely at an end; for it will not, I trust, be attempted to continue it by a prescriptive title, or to consider it as a reservation made by the

United States from any grant of sovereignty which, at the treaty of peace, they accorded to Great Britain. If, indeed, it was such a reservation, it must have been intended for our benefit, and of course could be no equivalent for the fishing privilege. If it is considered as a reservation made by Great Britain, it will reverse the facts assumed by us in relation to that privilege.

The third article of the treaty of 1783, respecting the fisheries, and the eighth article of that treaty, respecting the Mississippi, had not the slightest reference to each other, and were placed as remote the one from the other as the limits of that treaty could well admit. Whatever, therefore, was the cause of inserting the fishing liberty, whether it was a voluntary and gratuitous grant on the part of Great Britain, or extorted from her as a condition on which the peace depended, it could have had no relation to the free navigation of the Mississippi. Besides, the article relative to this river must, from the evident views of the parties at the time, from their supposed relations to each other, and from their known relations to a third Power, as to this river, have been considered of mutual and equal advantage, and furnished no subject for compensation or adjustment in any other provision of that treaty. Both parties believed that this river touched the territories of both, and that, of course, both had a right to its navigation. As Spain possessed both banks of this river, to a considerable distance from its mouth, and one of its banks nearly throughout its whole extent, both parties had an interest in uniting to prevent that Power from obstructing its navigation. Had not the article been intended to engage the parties in relation to Spain, they would, probably, have limited it to the navigation of the river as far as their own territories extended on it, and not have stipulated for its navigation to the ocean, which necessarily carried it through the exclusive territories of Spain.

If the circumstances had been, in fact, such as the parties at the time believed them to be, and with a view to which they acted; or had these circumstances subsequently experienced no radical change, Great Britain would have gained now no more than she would have granted by the revival of the article in relation to the Mississippi, and would not, any more than in 1783, have acknowledged any equivalent to be conferred by it for our liberty relative to the fisheries. The circumstances, however, assumed by the parties at the time, in relation to Great Britain, and from which her rights were deduced, have not only in part been discovered not to have existed, but those which did exist have been entirely changed by subsequent events. It has been ascertained that the territories assigned to Great Britain no where, in fact, reached the Mississippi; and the acquisition of Louisiana by the United States has forever removed the Spanish jurisdiction from that river. The whole consideration, therefore, on the part of Great Britain, whether derived from her territorial rights, or from her part of the reciprocal obligations relative to Spain, having entirely failed, our engagements entered into on account of

that consideration may be fairly construed to have terminated with it.

In this view of the subject, Great Britain could have had no title to the navigation of the Mississippi, even if a war had not taken place between the parties. To renew, therefore, the claims of Great Britain under that article, subject to this construction, would be granting her nothing; and to renew that article independent of this construction, and without any reference to the circumstances that attended its origin, in 1783, or to the events which have since occurred in relation to it, would be granting her advantages not only entirely unilateral, as it relates to the article itself, but, I believe, of much greater importance than any which we could derive from the liberty relative to the fisheries.

If the article which we offered merely intended to rescue the third and eighth articles of the treaty of 1783 from the operation of the present war, and to continue them precisely as they were immediately prior to this war, (the third article being then in full force, and the eighth article being no longer obligatory,) we should have attempted to exchange, like General Drummond, the dead for the living.

It is not surprising, therefore, that the British Government should, in suspecting such an intention, have rejected our proposition. I was opposed, however, to making the proposition, not only because I was convinced that it was offered with no such intention, but because I believed it would give to Great Britain the free navigation of the Mississippi, under circumstances, and evidently for an object, which would place it on very distinct grounds from those on which it was placed by the treaty of 1783.

The whole of the Mississippi being now exclusively within the acknowledged jurisdiction of the United States, a simple renewal of the British right to navigate it would place that right beyond the reach of the war, and of every other previous circumstance which might have impaired or terminated it; and the power to grant on our part being now complete, the right to enjoy on hers, under our grant, must be complete also.

It would be absurd to suppose that any thing impossible was intended, and that Great Britain was to be allowed to navigate the Mississippi precisely as she could have navigated it immediately after the treaty of 1783; as if her territories extended to it; and as if Spain was in entire possession of one of its banks and of a considerable portion of the other. The revival of the British right to navigate the Mississippi would be, under existing circumstances, a new and complete grant to her, measured by these circumstances, and thence embracing not only the entire freedom of the whole extent of that river, but the unrestrained access to it across our territories. If we did not intend this, we intended nothing which Great Britain could accept; and whatever else might have been intended, if not at once rejected by her, would hereafter have been the subject of new and endless controversy. When, however, we connected the revival of the navigation of the Mississippi with

the revival of the liberty of taking and curing fish within the British jurisdiction, (two things which never before had any relation to each other,) we evidently meant, if we acted in good faith, not only to concede as well as to obtain something, but also to be understood as conceding an equivalent for what we obtained. In thus offering the navigation of the Mississippi, and the access to it through our territories, as an equivalent for the fishing liberty, we not only placed both on ground entirely different from that in which they respectively stood in the treaty of 1783, and acted somewhat inconsistently with our own reasoning relative to the origin and immortality of the latter; but we offered to concede much more than we could hope to gain by the arrangement, with whatever view its comparative effects might be estimated.

From the year 1783 to the commencement of the present war, the actual advantages derived from the fishing privilege by the people of the United States were, according to the best information that I can obtain on the subject, very inconsiderable, and annually experiencing a voluntary diminution.

It was discovered that the obscurity and humidity of the atmosphere, owing to almost incessant fogs in the high northern latitudes, where this privilege was chiefly located, prevented the effectual curing of fish in those regions, and, consequently, lessened very much the value of the liberty of taking them there. By far the greatest part of the fish taken by our fishermen before the present war was caught in the open sea or upon our own coasts, and cured upon our own shores. This branch of the fisheries has been found to be inexhaustible, and has been pursued with so much more certainty and despatch than the privileged portion within the British jurisdiction, that it has not only been generally preferred by our fishermen, but would probably, on longer experience, have been almost universally used by them. It was to be believed, therefore, that a discontinuance of the privilege of taking and curing fish within the British jurisdiction would not at all diminish the aggregate quantity taken by the people of the United States, or very materially vary the details of the business. That part of the fisheries which would still have belonged to us as a nation (being exhaustless) would afford an ample field for all the capital and industry hitherto employed in the general business of fishing, or merchandise of fish; and on that field might the few fishermen who had hitherto used the liberty of taking and curing fish within the jurisdiction of Great Britain exert their skill and labor without any serious inconvenience. This liberty, liable, in a very considerable degree, by the terms in which it was granted, to be curtailed by the Government and subjects of a foreign State; already growing into voluntary disuse by our own citizens, on account of the difficulties inseparable from it; and absolutely incapable of extension, was totally unnecessary to us for subsistence or occupation, and afforded in no way any commercial facility or political advantage. This privilege, too, while it was thus of little or no utility to us, cost Great Britain literally nothing.

The free navigation of the Mississippi, with the necessary access to it, is a grant of a very different character. If it was not heretofore used by Great Britain, it was, perhaps, because she did not consider herself entitled to it, or because the circumstances of the moment suspended its practical utility. The treaty of 1783 stipulated for her the navigation of this river, under the presumption that her territories extended to it; and, of course, could not intend to give her an access to it through our territories. The British possessions to the westward of Lake Erie being almost entirely unsettled, rendered, perhaps, the free navigation of the Mississippi, for the moment, of little advantage to her, particularly as her right to reach it was at least equivocal, and as, by another treaty, she could carry on trade with our Indians.

This navigation might, indeed, for a long time to come, be of little use to her for all the legitimate purposes of transit and intercourse; but every change that could take place in this respect must increase its importance to her; while every change in the fishing liberty would be to the disadvantage of the United States.

The freedom of the Mississippi, however, is not to be estimated by the mere legitimate uses that would be made of it. The unrestrained and undefined access which would have been inferred from the article which we proposed, would have placed in the hands of Great Britain and her subjects all the facilities of communication with our own citizens, and with the Indians inhabiting the immense regions of our Western territory. It is not in the nature of things that these facilities should not have been abused for unrighteous purposes. A vast field for contraband and intrigue would have been laid open, and our Western territories would have been swarmed with British smugglers and British emissaries. The revenue would have been defrauded by the illicit introduction of English merchandise; and the lives of our citizens, and the security of a valuable portion of our country, exposed to Indian hostilities, excited by an uncontrolled British influence. If our instructions to guard against such an influence forbade us to renew the British liberty to trade with our Indians, we certainly violated the spirit of those instructions in offering the means of exercising that influence with still greater facility and effect than could result from that liberty.

What was there in the fishing liberty, either of gain to us, or loss to Great Britain, to warrant, in consideration of it, a grant to her of such means of fraud and annoyance? What justice or equality was there in exposing to all the horrors of savage warfare the unoffending citizens of an immense tract of territory, not at all benefited by the fishing privilege, merely to provide for the doubtful accommodation of a few fishermen, in a remote quarter, entirely exempt from the danger?

Such have been the reasons which induced me to differ from a majority of my colleagues with regard to the article in question, and which, I trust, will be thought sufficient at least to vindicate my motives.

The unfeigned respect which I feel for the in-

tegrity, talents, and judgment of those gentlemen would restrain me from opposing them on slight grounds; and a deference for their opinions makes me almost fear that I have erred in dissenting from them on the present occasion. I can but rejoice, however, that the article as proposed by us was rejected by Great Britain, whatever were her reasons for rejecting it: whether, as above suggested, she suspected some tacit reservation, or want of faith on our part; or supposed, from the price we at once bade for the fishing privilege, that we overrated its value, and might concede for it even more than the navigation of the Mississippi, with all its accessory advantages.

We are still at liberty to negotiate for that privilege in a treaty of commerce, should it be found expedient, and to offer for it an equivalent fair in its comparative value, and just in its relative effects. In any other way, I trust, we shall not consent to purchase its renewal.

I have the honor to be, with profound respect, sir, your faithful and obedient servant,

JONATHAN RUSSELL.

My argument to demonstrate the abrogation of the treaty of 1783 by the present war, and the consequent discontinuance of the fishing privilege will, I trust, not be ascribed to any hostility to those who were interested in that privilege. I have been always ready, and am still ready, to make every sacrifice for the preservation of that privilege which its nature and utility can justify; but I have conscientiously believed that the free navigation of the Mississippi was pregnant with too much mischief to be offered indirectly, under our construction of the treaty, or directly, as a new equivalent for the liberty of taking and curing fish within the British jurisdiction.

We had three other ways of proceeding:

First. To contend for the indestructibility of the treaty of 1783; thence inferring the continuance of the fishing privilege, without saying any thing about the navigation of the Mississippi, which would have reserved our right of contesting this navigation on the grounds I have mentioned as specially applicable to it.

Secondly. To have considered the treaty at an end, and to have offered a reasonable equivalent (wherever it might be found) for the fishing privilege.

Thirdly. To have made this liberty a *sine qua non* of peace, as embraced by the principle of *status ante bellum*.

To either of these propositions I would have assented; but I could not consent to grant or revive the British right to the navigation of the Mississippi in order to procure or preserve the fishing liberty.

[DUPLICATE.]

PARIS, February 11, 1815.

SIR: In conformity with the intimation contained in my letter of the 25th December, I have now the honor to state to you the reasons which have induced me to differ from a majority of my

colleagues on the expediency of offering an article confirming the British right to the navigation of the Mississippi, and the right of the American people to take and cure fish in certain places within the British jurisdiction.

The proposal of such an article appeared to be inconsistent with our reasoning to prove its absolute inutility.

According to this reasoning, no new stipulation was any more necessary, on the subject of such an article, than a new stipulation for the recognition of the sovereignty and independence of the United States.

The article proposed appeared, also, to be inconsistent with our instructions, as interpreted by us, which forbade us to suffer our right to the fisheries to be brought into discussion; for, it could not be believed that we were left free to stipulate on a subject which we were restrained from discussing, and that an argument, and not an agreement, was to be avoided.

If our construction was, indeed, correct, it might not, perhaps, be difficult to show that we have not, in fact, completely refrained from the interdicted discussion.

At any rate, the proposal of the article in question was objectionable, inasmuch as it was incompatible with the principles asserted by a majority of the mission, and with the construction which that majority had adopted on that part of our instructions which related to the fisheries. If the majority were correct in these principles and in this construction, it became us to act accordingly; if they were incorrect, still it was unnecessary to add inconsistency to error.

I freely confess, however, that I did not accord with the majority, either in their views of the treaty of 1783, whence they derive their principles, nor of our instructions; and that my great objection to proposing the article did not arise from an anxiety to reconcile our conduct with our reasoning and declarations.

I could not believe that the independence of the United States was derived from the treaty of 1783; that the recognition of that independence by Great Britain gave to this treaty any peculiar character; or that such character, supposing it existed, would necessarily render this treaty absolutely inseparable in its provisions, and make it one entire and indivisible whole, equally imperishable in all its parts, by any change which might occur in the relations between the contracting parties.

The independence of the United States rests upon those fundamental principles set forth and acted on by the American Congress in the declaration of July, 1776, and not on any British grant in the treaty of 1783; and its era is dated accordingly.

The treaty of 1783 was merely a treaty of peace, and therefore subject to the same rules of construction as all other compacts of this nature. The recognition of the independence of the United States could not well have given to it a peculiar character, and excepted it from the operation of these rules. Such a recognition, expressed or implied, is always indispensable on the part of

every nation with whom we form any treaty whatsoever. France, in the Treaty of Alliance, long before the year 1783, not only expressly recognised, but engaged effectually to maintain this independence; and yet this treaty, so far from being considered as possessing any mysterious peculiarity by which its existence was perpetuated, has, even without war, and although a part of it contained words of perpetuity and was unexecuted, long since terminated.

Had the recognition of our independence by Great Britain given to the treaty of 1783 any peculiar character, (which it did not,) yet that character could have properly extended to those provisions only which affected that independence. All these general rights, for instance, of jurisdiction, which appertained to the United States in their quality as a nation, might, so far as that treaty was declaratory of them, have been embraced by that peculiarity, without necessarily extending its influence to mere special liberties and privileges, or to provisions long since executed, not indispensably connected with national sovereignty, nor necessarily resulting from it.

The liberty to take and cure fish within the exclusive jurisdiction of Great Britain, was certainly not necessary to perfect the jurisdiction of the United States. And there is no reason to believe that such a liberty was intended to be raised to an equality with the general right of fishing within the common jurisdiction of all nations, which accrued to us as a member of the great national family. On the contrary, the distinction between the special liberty and the general right appears to have been well understood by the American Ministers who negotiated the treaty of 1783, and to have been clearly marked by the very import of the terms which they employed. It would evidently have been unwise in them, however ingenious it may be in us, to exalt such a privilege to the rank of a sovereign right, and thereby to have assumed the unnecessary and inconvenient obligation of considering such a liberty to be an indispensable condition of our national existence, and thus rendering that existence as precarious as the liberty itself. They could not have considered a privilege which they expressly made to depend, to a very considerable extent, for its continuance, on mere events and private interests, as partaking of the character and entitled to the duration of the inherent properties of sovereignty. The settlement of the shores might at any time have been effected by the policy of the British Government, and would have made the assent of British subjects, under the influence of that policy, necessary to the continuance of a very considerable portion of that privilege. They could not have meant thus to place within the control of a foreign Power and its subjects an *integral part*, as we now affect to consider this privilege, of our national rights.

It is from this view of the subject that I have been constrained to believe that there was nothing in the treaty of 1783 which could essentially distinguish it from ordinary treaties, or rescue it, on account of any peculiarity of character, from the *jura belli*, or from the operation of those events on

which the continuance or termination of such treaties depends.

I was, in like manner, compelled to believe, if any such peculiarity belonged to those provisions in that treaty, which had an immediate connexion with our independence, that it did not necessarily affect the nature of the whole treaty, nor attach to a privilege which had no analogy to such provisions, nor any relation to that independence.

I know not, indeed, any treaty, nor any article of a treaty, whatever may have been the subject to which it related, or the terms in which it was expressed, that has survived a war between the parties, without being specially renewed, by reference or recital, in the succeeding treaty of peace. I cannot, indeed conceive the possibility of such a treaty, or of such an article; for, however clear and strong the stipulations for perpetuity might be, these stipulations themselves would follow the fate of ordinary unexecuted engagements, and require, after a war, the declared assent of the parties for their revival.

We appear, in fact, not to have an unqualified confidence in our construction of the treaty of 1783, or to have been willing to rest exclusively on its peculiar character our title to any of the rights mentioned in it, and much less our title to the fishing privilege in question.

If hostilities could not affect that treaty, nor abrogate its provisions, why did we permit the boundaries assigned by it to be brought into the discussion, or stipulate for a restoration of all places taken from us during the present war? If such a restitution was secured by the mere operation of the treaty of 1783, why did we discover any solicitude for the *status ante bellum*, and not resist the principle of *uti possidetis* on that ground?

With regard to the fishing privilege, we distinctly stated to you, in our letter of the 25th of December last, that, at the time of the treaty of 1783, it was no new grant, we having always before that time enjoyed it, and thus endeavored to derive our title to it from prescription. A title derived from immemorial usage, antecedent to 1783, could not well owe its origin or validity to any compact concluded at that time; and we might, therefore, in this view of the subject, correctly say that this privilege was then no new grant; that is, that our right to the exercise of it was totally independent of such compact. If we were well founded, however, in the assertion of our prescriptive title, it was quite unnecessary for us to attempt to give a kind of charmed existence to the treaty of 1783, and to extend its indefinable influence to every article of which it was composed, merely to preserve that title which we declared to be derived from it, and which had existed, and of course could exist, without it.

It was rather unfortunate, too, for our argument against the severance of the provisions of that treaty, that we should have discovered ourselves such a radical difference between them, making the fishing privilege to depend on immemorial usage, and of course distinct, in its nature and in its origin, from the rights resulting from our independence.

We indeed throw some obscurity over this subject, when we declare to you that this privilege was always enjoyed by us before the treaty of 1783, thence inferring that it was not granted by that treaty; and, in the same sentence, and from the same fact, appear also to infer that it was not to be forfeited by war, any more than any other of the rights of independence; making it thus one of those rights, and, of course, according to our doctrine, dependent on that treaty. There might have been nothing incomprehensible in this mode of reasoning, had the treaty recognised this privilege to be derived from prescription, and confirmed it on that ground. The treaty, however, has not the slightest allusion to the past, in reference to this privilege, but regards it only with a view to the future. The treaty cannot, therefore, be construed as supporting a pre-existing title, but as containing a grant entirely new. If we claim, therefore, under the treaty, we must renounce prescription; and if we claim from prescription, we can derive no aid from the treaty. If the treaty be imperishable in all its parts, the fishing privilege remains unimpaired, without a recurrence to immemorial usage; and if our title to it be well founded on immemorial usage, the treaty may perish without affecting it. To have endeavored to support it on both grounds implies that we had not entire confidence in either; and to have proposed a new article, indicates a distrust of both.

It is not, as I conceive, difficult to show that we can, indeed, derive no better title to this fishing privilege from prescription, than from any indisstructible quality of the treaty of 1783.

Prescription appears to be inapplicable to the *parties* and to the *subject*, and to be defective both in *fact* and *effect*.

As to the *parties*: the immemorial enjoyment of a privilege, within British jurisdiction, by British subjects, the inhabitants of British colonies, could not well be considered as evidence of a title to that privilege claimed by citizens of an independent Republic, residing within the exclusive jurisdiction of that Republic. The people of the United States, as such, could have claimed no special privilege within the dominions of any foreign Power, from immemorial usage, in 1783, when the longest duration of their own existence in that quality was little more, at the utmost, than the brief period of *seven* years, which is surely not beyond the memory of man, (*ultra memoriam hominis*.) The people of the United States had never, in fact, during that period, enjoyed the fishing privilege a moment, being effectually prevented therefrom by the existing state of hostilities. Nor could the inhabitants of the colonies, originally constituting the United States, even in their colonial condition, acquire against their sovereign any right from long usage, or the mere lapse of time, (*nullum tempus regi occurrit*.) The British sovereign was always competent to regulate or to restrain them in their commerce and intercourse with each other, whenever and however he might think proper. And had he forbidden his subjects in the province of Massachusetts Bay to fish, and to dry and cure fish, in the bays, harbors, and

creeks of Labrador, (which, by the way, had not *immemorially belonged to him*,) it is not to be imagined that they would have conceived themselves discharged from the obligation of submitting, on account of any pretended right from immemorial usage.

The fishing privilege, therefore, enjoyed by British subjects within British jurisdiction, could give no permanent and independent right to those subjects themselves, and, *a fortiori*, no such right to the citizens of the United States, claiming under a *different estate* and in a *different capacity*. Great Britain might, indeed, as well prescribe for the prerogative of her sovereignty over us, as we for any of the privileges which we enjoyed as her subjects.

I do not think it necessary to inquire how far the practice of the people of Massachusetts was the practice of the people of the whole original thirteen United States, or of the United States, now including Louisiana; or how far the immemorial usage of the people of Boston can establish a prescriptive right in the people of New Orleans. I trust I have said enough to show that prescription is *inapplicable to the parties*.

It is also, I conceive, inapplicable to the *subject*. Had the United States, as an independent nation, enjoyed from time immemorial the fishing privilege in question, still, from the nature of this privilege, no prescriptive right would have thence been established. A right to fish, or to trade, or to do any other thing, within the exclusive jurisdiction of a foreign State, is a *simple power*, a right of *mere ability*, (*jus mera facultatis*,) depending on the will of such State, and, consequently, *imprescriptible*. An independent right can be derived only from treaty.

I conceive, therefore, that a claim to the fishing privilege from immemorial usage is not only unsupported by the *fact*, but cannot, in *effect*, result from such usage.

I have, in this view of the subject, been led to conclude that the treaty of 1783, in relation to the fishing liberty, is abrogated by the war; and that this liberty is totally destitute of support from prescription; and, consequently, that we are left without any title to it whatsoever: for, I cannot prevail upon myself to seek for such a title in the relative situation of the parties at the time of negotiating the treaty of 1783, and contend, according to the insinuation contained in our letter to you of the 25th December last, that the jurisdiction of Great Britain over the colonies assigned to her, in America, was a grant of the United States; and that the United States, in making this grant, *reserved to themselves* the privilege in question. Such a pretension, however lofty, is so inconsistent with the real circumstances of the case, and with any sober construction which can be given to that treaty, that I shall, I trust, be excused from seriously examining its validity.

Having thus stated some of the reasons which induced me to differ in opinion from a majority of my colleagues, relative to the character of the treaty of 1783, as well as with regard to every other foundation on which they were disposed in-

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consistently to rest our title to the fishing privilege, I shall now proceed to explain the reasons which influenced me to dissent from them in the interpretation of our instructions relative to their privilege.

These instructions forbade us to permit our rights to the trade beyond the Cape of Good Hope, to the fisheries, and to Louisiana, to be brought into discussion. I conceived that this prohibition extended to the general rights only, which affected our sovereignty and resulted from it; and not to the special liberties and privileges, which had no relation to that sovereignty, either as to its nature or extent.

The right relative to the trade beyond the Cape of Good Hope was the right which belonged to us as an independent nation, and not to the permission of trading to those parts of the East Indies which were within the exclusive jurisdiction of Great Britain. In like manner, the right to the fisheries, contemplated by our instructions, was, I conceive, the right to use the open sea for fishing as well as for navigation; and not the liberty to fish, and to cure fish, within the territorial limits of any foreign State. The right to Louisiana, which, by those instructions, was not to be brought into discussion, was the right to the empire and domain of that region, and not the right of excluding Great Britain from the free navigation of the Mississippi.

How far we conformed to this instruction, with regard to the general right to Louisiana, it is not necessary for me here to inquire; but, certainly, the majority believed themselves to be permitted (their own construction to the contrary notwithstanding) to offer a very explicit proposition, with regard to the navigation of its principal river. Now, this offer I considered, for the reasons just suggested, not to be a violation of the instructions in question, but I considered it to be against both the letter and the spirit of our other instructions of the 15th of April, 1813. By these instructions we were explicitly and implicitly directed "to avoid any stipulation which might restrain the United States from excluding the British traders from the navigation of the lakes and rivers, exclusively within our own jurisdiction." This instruction applied with the greater force to the Mississippi, because, as it is believed, it was the only river to which it could apply.

While I believed, therefore, that we were permitted to offer a proposition, relative to the fishing liberty; and that, in treating concerning this liberty, or in discussing our claim to it, we in no way violated our instructions, nor affected the general rights which we were forbidden to bring into discussion; I did believe, and do still believe, that we were expressly and unequivocally forbidden to offer or to renew a stipulation for the free navigation, by the British, of the Mississippi—a river within our exclusive jurisdiction.

Considering, therefore, the fishing liberty to be entirely at an end, without a new stipulation for its revival, and believing that we were entirely free to discuss the terms and conditions of such a stipulation, I did not object to the article proposed

by us because any article on the subject was necessary, or contrary to our instructions, but I objected specially to that article, because, by conceding in it to Great Britain the free navigation of the Mississippi, we not only directly violated our instructions, but we offered, in my estimation, a price much above its value, and which could not justly be given.

In no view of the subject could I discover any analogy or relation between the two objects; and the only reason for connecting them, and making them mutual equivalents for each other, appeared to be, because they were both found in the treaty of 1783. If that treaty was abrogated by the war, as I consider it to have been, any connexion between its parts must have ceased, and the liberty of navigating the Mississippi by British subjects must, at least, be completely at an end; for it will not, I trust, be attempted to continue it by a *prescriptive* title, or to consider it as a *reservation* made by the United States from any grant of sovereignty, which, at the treaty of peace, they accorded to Great Britain. If, indeed, it were such a reservation, it must have been intended for *our benefit*; and, of course, no equivalent for the fishing privilege, likewise for our benefit. If it is considered as a reservation made by Great Britain, it will reverse all the facts assumed by us in relation to that privilege.

The third article of the treaty of 1783, respecting the fisheries, and the eighth of that treaty, respecting the Mississippi, had not the slightest reference to each other, and were placed as remote the one from the other as the limits of that treaty could well admit. Whatever, therefore, might have been the cause of inserting the fishing liberty, whether it was a voluntary and gratuitous grant on the part of Great Britain, or extorted from her as a condition on which the peace depended, it could have had no relation with the free navigation of the Mississippi. Besides, the article relative to this river must, from the evident views of the parties at the time, from their relations to each other, and from their known relations to a third Power, have been considered of mutual and equal advantage, and furnished no subject for compensation or adjustment in any other provision of that treaty.

Both parties believed that this river touched the territories of both, and that, of course, both had a right to its navigation. As Spain possessed both banks of this river to a considerable distance from its mouth, and one of its banks nearly throughout its whole extent, both parties had an interest in uniting to prevent that Power from obstructing its navigation. Had not the article been intended to engage the parties in relation to Spain, they probably would have limited it to the navigation of the river, so far as their own territories extended on it, and not have stipulated for its navigation to the ocean, which necessarily carried it through the exclusive territories of Spain. If the circumstances had been, in fact, such as the parties at the time believed them to be, and with a view to which they acted, or had these circumstances subsequently experienced no radical change, Great

Britain would have gained now no more than she would have granted by the renewal of the article in relation to the navigation of the Mississippi; and would not, any more than in 1783, have acknowledged any equivalent to be conferred by it, for our liberty relative to the fisheries. The circumstances, however, assumed by the parties at the time, in relation to Great Britain, and from which her rights were deduced, have not only in part been since discovered not to have existed, but those which did exist have been entirely changed by subsequent events.

It has been clearly ascertained that the territories assigned to Great Britain nowhere, in fact, reached the Mississippi; and the acquisition of Louisiana by the United States had forever removed the Spanish jurisdiction from that river. The whole consideration, therefore, on the part of Great Britain, whether derived from her territorial rights, or from her part of the reciprocal obligations relative to Spain, having entirely failed, our engagements entered into on account of that consideration may be fairly construed to have terminated with it.

In this view of the subject, Great Britain could have had no title to the navigation of the Mississippi, even if a war had not taken place between the parties. To renew, therefore, the claims of Great Britain under that article, subject to this construction, would be granting her nothing; and, to renew that article independent of this construction, and without any reference to the circumstances that attended its origin in 1783, or to the events which have since occurred in relation to it, would be granting her advantages not only entirely *unilateral*, as relates to the article itself, but, as I believed, of much greater importance than any which we could derive from the liberty relative to the fisheries.

If the article which we offered was merely intended to rescue the third and eighth articles of the treaty of 1783 from the operation of the present war, and to continue them precisely as they were immediately prior to this war, (the third article being then in full force, and the eighth article being no longer operative,) we should have attempted to exchange, like General Drummond, the dead for the living. It is not surprising, therefore, that the British Government, in suspecting such an intention, should have rejected our proposition.

I was opposed, however, to making the proposition, not only because I was convinced that it was made with no such intention, but because I believed it would give to Great Britain the free navigation of the Mississippi, under circumstances, and evidently for an object, which would place it on very distinct grounds from those on which it was placed by the treaty of 1783.

The whole of the Mississippi being now exclusively within the acknowledged jurisdiction of the United States, a simple renewal of the British right to navigate it would place that right beyond the reach of the war, and every other previous circumstance which might have impaired or terminated it; and the right to grant, on our part, being

now complete, the right to enjoy, on the part of Great Britain, must be complete also. It would be absurd to suppose that any thing impossible was intended, and that Great Britain was to be allowed to navigate the Mississippi only as she would have navigated it immediately after the treaty of 1783, as if her territories extended to it, and as if Spain was in the entire possession of one of its banks, and of a considerable portion of the other.

The recognition of the British right to navigate the Mississippi would be, under existing circumstances, a new and complete grant to her, measured by these circumstances, and thence embracing not only the entire freedom of the whole extent of the river and its tributary waters, but unrestrained access to it across our territories. If we did not intend to offer this, we intended to offer nothing which Great Britain could accept; and whatever else we might have intended to offer, if not at once rejected by her, would at least have been hereafter the subject of new and endless controversy.

When, however, we connected the revival of the navigation of the Mississippi with the revival of the privilege of taking and curing fish within the British jurisdiction, (two things which never before had any relation to each other,) we evidently meant, if we acted with good faith, not only to concede, as well as to obtain something, but also to be understood as conceding an equivalent for what we obtained.

In thus offering the navigation of the Mississippi, and the access to it through our territories, as an equivalent for the fishing liberty, we not only placed both on ground entirely different from that on which they respectively stood in the treaty of 1783, and acted somewhat inconsistently with our own reasoning, relative to the origin and immortality of the latter, but we offered to concede much more than we could hope to gain by the arrangement.

From the year 1783 to the commencement of the present war, the actual advantage derived from the fishing privilege by the people of the United States were, according to the best information that we could obtain on the subject, very inconsiderable, and annually experiencing a voluntary diminution.

It was discovered that the obscurity and humidity of the atmosphere, owing to almost incessant fogs in the high northern latitudes, where this privilege was chiefly located, prevented the effectual curing of fish in those regions, and, consequently, lessened very much the value of the privilege of taking them there. By far the greatest part of the fish taken by our fishermen before the present war was taken in the open sea, or on our own coasts, and cured on our shores. This branch of the fisheries has been found to be inexhaustible, and has been pursued with so much more certainty and despatch than the privileged portion within British jurisdiction, that it has not only been generally preferred by our fishermen, but would, probably, on longer experience, have been almost universally used by them. It was to be believed, therefore, that a discontinuance of the

privilege of taking and curing fish within the British jurisdiction would not at all diminish the aggregate quantity taken by the people of the United States, or vary materially the details of the business.

That part of the fisheries which would still belong to us as a nation (being exhaustless) would afford an ample field for all the capital and industry hitherto employed in the general business of fishing or merchandise of fish; and on that field might the few fishermen, who had hitherto used the liberty of taking and curing fish within the jurisdiction of Great Britain, exert their skill and labor without any serious inconvenience.

That liberty, liable, to a very considerable degree, by the terms in which it was granted, to be curtailed by the Government and subjects of a foreign State; already growing into voluntary disuse by our own citizens, on account of the difficulties inseparable from it, and absolutely incapable of extension; was totally unnecessary to us for subsistence or occupation, and afforded in no honest way, either commercial facility or political advantage. This privilege, too, while it was thus of little and precarious utility to us, cost Great Britain literally nothing.

The free navigation of the Mississippi with the necessary access to it, is a grant of a very different character. If it was not heretofore used by Great Britain, it was, perhaps, because she did not consider herself entitled to it, or because the circumstances of the moment suspended its practical utility. The treaty of 1783 stipulated for her the navigation of this river, under the presumption that her territories extended to it, and of course could not intend to give her access to it through our territories. The British possessions to the westward of Lake Erie being almost entirely unsettled, rendered, perhaps, the free navigation of the Mississippi for the moment of little advantage to her, particularly as her right to reach it was at least equivocal, and as, by another treaty, she could carry on trade with our Indians. This navigation might, indeed, for a long time to come, be of little use to her for all the *legitimate* purposes of transit and intercourse; but every change that could take place in this respect must increase its importance to her, while every change in the fishing liberty must be to the disadvantage of the United States.

The freedom of navigating the Mississippi, however, is not to be estimated by the mere legitimate uses that would be made of it. The unrestrained and undefined access, which would have been inferred from the article which we proposed, must have placed in the hands of Great Britain and her subjects all the facilities of communication with our own citizens, and with the Indians inhabiting the immense regions of our Western territory. It is not in the nature of things that these facilities should not have been abused for unrighteous purposes. A vast field for contraband and for intrigue would have been laid open, and our Western territories would have swarmed with British smugglers and British emissaries. The revenue would have been defrauded by the illicit

introduction of English merchandise; and the lives of our citizens, and the security of a valuable portion of our country would have been exposed to Indian hostility, excited by an uncontrolled British influence.

If our instructions of the 15th of April, 1813, already cited, forbade us, in order to guard against such an influence, to renew the treaty of 1794, "allowing the Northwest Company and British traders to carry on trade with the Indian tribes within our limits—a privilege the pernicious effects of which have been most sensibly felt in the present war"—we certainly violated the spirit of those instructions in offering the means of exercising that influence with still greater facility and effect than could result from that privilege.

What was there in a fishing liberty, either of gain to us or loss to Great Britain, to warrant, in consideration of it, a grant to her of such means of fraud and annoyance? What justice or equality was there, in exposing to all the horrors of savage warfare the unoffending citizens of an immense tract of territory, not at all, or but faintly, benefited by the fishing privilege, merely to provide for the doubtful accommodation of a few fishermen, annually decreasing in number, in a remote quarter, and entirely exempt from the danger? Such have been the reasons which induced me to differ from a majority of my colleagues with regard to the article in question, and which, I trust, will be deemed sufficient, at least, to vindicate my motives.

The unfeigned respect which I feel for the integrity, talents, and judgment of those gentlemen, would restrain me from opposing them on slight grounds; and a deference for their opinions makes me almost fear that I have erred in dissenting from them on the present occasion. I can but rejoice, however, that the article, as proposed by us, was rejected by Great Britain, whatever were her reasons for rejecting it; whether, as above suggested, she might have suspected some tacit reservation, or want of faith, on our part; or supposed, from the price we at once bade for the fishing privilege, that we overrated its value, and might concede for it even more than the free navigation of the Mississippi, with all its accessory advantages.

Let me not, in any thing which I have said, be misunderstood. In judging on the interests of the great whole, I am not disposed to undervalue the interests of any of the constituent parts. No one can more highly appreciate than I do a branch of industry which not only adds to national wealth, but seems to create it. Nor can any one more warmly admire the usefulness and patriotism of those citizens who are engaged in it, and who have never ceased to deserve well of the Republic. In times of peace they bring home, amidst conflicting elements, the treasures of the deep to enrich their country; and in times of war they contribute, by their skill and intrepidity to her defence and glory. But, in our country, where all are equal, the essential security and prosperity of the many must be preferred to the convenience and minor interests of the few. In giving this preference, I will frankly confess I had to silence

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early prepossessions and local predilections, and to listen to the counsels of a more enlarged patriotism; and to this patriotism I dare appeal for my vindication, not only to those to whom I am officially responsible, but to those with whom I am more immediately connected in society, and whose interests may be considered to have been unfavorably affected by the views which I have deemed it to be my duty to adopt. I have always been willing to make any sacrifice for the fishing privilege which its nature or comparative importance could justify; but I conscientiously believe that the free navigation of the Mississippi, and the access to it which we expressly offered, were pregnant with too much mischief to be offered, indirectly, under our construction of the treaty, or directly, as they were in fact offered, as a new equivalent for the liberty of taking and drying fish within the British jurisdiction.

I will frankly avow, however, that my impressions were, and still are, that Great Britain, calculating on the success of the powerful expedition which she has sent against New Orleans, confidently expected that she would have become the mistress of Louisiana and all its waters; and that she did not, in this event, intend to abandon her conquest under the terms of the Treaty of Ghent.

Her Ministers had, almost from the commencement of the negotiation, not only affected to consider our acquisition of Louisiana as evidence of a spirit of aggrandizement, but insinuated a defect in our title to it. Expecting, therefore, to obtain the free navigation of the Mississippi for nothing, she would not consent to part even with the fishing liberty as an equivalent. If she be disappointed in her views on Louisiana, (and I trust in God and the valor of the West that she will be,) I shall not be surprised if, hereafter, she grants us the fishing privilege, which costs her absolutely nothing, without any extravagant equivalent whatever.

At any rate, we are still at liberty to negotiate for that privilege in a treaty of commerce, and to offer for it an equivalent, fair in its comparative value, and just in its relative effects; and to negotiate for it in this way is evidently more wise than to demand it as a condition of peace, or to offer for it a price beyond its worth, and which, however excessive, runs the hazard of being refused, merely by the operation of those unaccommodating passions which are inevitably engendered by a state of war.

I have the honor to be, with the most profound respect, sir, your faithful and obedient servant,

JONATHAN RUSSELL.

Hon. JAMES MONROE,
Secretary of State of the United States.

A true copy of a paper left by Jonathan Russell, Esq., at the Department of State, 22d April, 1822, to be communicated to the House of Representatives of the United States.

J. Q. ADAMS,
Secretary of State.

Remarks on a paper delivered by Mr. Jonathan Russell, at the Department of State, on the 22d of April, 1822, to be communicated to the House of Representatives, as the duplicate of a letter written by him at Paris, the 11th February, 1815, to the then Secretary of State, and as the letter called for by the resolution of the House of the 19th April, 1822.

The first remark that presents itself upon this duplicate, is, that it is not a copy of the letter really written by Mr. Russell, at Paris, on the 11th of February, 1815, to the Secretary of State, and received by him. The letter was marked "private," and, as such, was not upon the files of the Department of State; and, although of the same general purport and tenor with the so called duplicate, differed from it in several highly significant passages, of which the following parallel, extracted from the two papers, presents one example:

ORIGINAL.

"How far we conformed to this instruction, with regard to the general right to Louisiana, it is not necessary for me here to inquire; but certainly the majority believed themselves permitted to offer a very explicit proposition, with regard to the navigation of its principal river. I believed, with them, that we were so permitted, and that we were, likewise, permitted to offer a proposition relative to the fishing liberty, and, had the occasion required it, to make proposals concerning the trade to the British East Indies. I was persuaded that treating relative to these privileges, or discussing the obligation or expediency of granting or withholding them, respectively, violated, in no way, our instructions, or affected the general rights which we were forbidden to bring into discussion."

DUPLICATE.

"How far we conformed to this instruction, with regard to the general right to Louisiana, it is not necessary for me here to inquire; but certainly the majority believed themselves to be permitted (their own construction to the contrary notwithstanding) to offer a very explicit proposition, with regard to the navigation of its principal river. Now, this offer, I considered, for the reasons just suggested, not to be a violation of the instructions in question; but I considered it to be against both the letter and the spirit of our other instructions, of the 15th of April, 1813. By these instructions, we were explicitly and implicitly directed 'to avoid any stipulation which might restrain the United States from excluding the British traders from the navigation of the lakes and rivers exclusively within our own jurisdiction.' This instruction applied with the greater force to the Mississippi, because, as it is believed, it was the only river to which it could apply."

"While I believed, therefore, that we were permitted to offer a proposition relative to the fishing liberty, and that, in treating concerning this liberty, or in discussing our claim to it, we in no way violated our instructions, nor affected the general rights which

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we were forbidden to bring into discussion, I did believe, and do still believe, that we were expressly and unequivocally forbidden to offer, or to renew, a stipulation for the free navigation by the British of the Mississippi—a river within our exclusive jurisdiction."

It is here seen that, while in the original letter Mr. Russell did, with the majority of his colleagues, believe that we were permitted by our instructions to make the proposition with regard to the navigation of the Mississippi, as well as a proposition relative to the fishing liberty, he had, when writing the duplicate, brought himself to the belief, not only that we were not so permitted, but that he had, even at Ghent, considered it as a direct violation both of the letter and spirit of our explicit and implicit instructions of 15th April, 1813. The solution of this difference in the mind of Mr. Russell, between the writing of the original and the duplicate of his letter, may be found in this circumstance: The proposition relating to the navigation of the Mississippi and the fisheries was made to the British Plenipotentiaries on the 1st of December, 1814. It had been discussed at the meetings of the American mission on the preceding 28th and 29th of November. On the 24th of that month the American Plenipotentiaries had received a letter of instructions from the Secretary of State, dated 19th October, 1814, and containing the following passages:

"It has been judged proper to communicate to Congress so much of the instructions given to you by this department as would show the terms on which you were authorized to make peace. These, as well as your communications, have been printed, and several copies are now forwarded to you, as it is believed they may be usefully disposed of in Europe. Should any circumstances have unexpectedly prolonged the negotiation, and you find the British Commissioners disposed to agree to the *status ante bellum*, you will understand that you are authorized to make it the basis of a treaty."

Now, the *status ante bellum*, upon which we were thus expressly and unequivocally permitted to conclude a treaty, included not only the recognition of the entire treaty of peace of 1783, but the revival of the first ten articles of the treaty of 1794; not only the freedom to the British to navigate the Mississippi, but free ingress into our territories, and free trade with our Indians. And so entirely was that part of the instructions of 15th of April, 1813, now cited by Mr. Russell, considered by the President as cancelled, that it was omitted from that copy which had been communicated to Congress of "so much of the instructions as would show the terms on which we were authorized to make peace," and of which several printed copies were thus forwarded to us. [See Wait's State Papers, vol. 9, pp. 339 and 358.]

It was scarcely possible that, within the compass of one week, Mr. Russell should have forgotten the receipt of the instruction of 19th October,

1814, fresh from Washington; nor at all possible that he should have considered us as then bound by the instruction of 15th April, 1813, to which, in his duplicate, he now so emphatically refers. The 11th of February, 1815, was yet so recent to the date of the conclusion of the treaty, that, in writing the original of his letter, the recollection of the new instructions of October, 1814, had doubtless not escaped him. But when the duplicate was written, other views had arisen; and their aspects are discovered in the aggravation of charges against the memory of a dead, and the character of living colleagues.

But whether the real sentiments of Mr. Russell at Paris, on the 11th of February, 1815, with regard to the transactions to which this passage relates, are to be taken as indicated in the original, or in the duplicate, certain it is that the vehement objections to the proposed article, which, in the duplicate, appear to have made so deep an impression on his mind, had as little been made known to his colleagues at the time of the discussions at Ghent, as they appear to have been to himself when writing the original of the same letter.

The proposal, to which the whole of Mr. Russell's letter, in both its various readings relates, was made to the British Plenipotentiaries, not by a majority, but by the whole of the American mission, including Mr. Russell, as may be seen by the protocol of the conference of the 1st December, 1814, and by the letter from the American to the British Plenipotentiaries of 14th December, 1814. In that letter, already communicated to the House, the American Plenipotentiaries, referring to the article in question, expressly say: "To such an article, which they viewed as merely declaratory, the undersigned had no objection, and have offered to accede;" and to that letter the name of Mr. Russell is subscribed.

At the time when the letter from Paris was written, or within a few days thereafter, all the colleagues, whose conduct it so severely censures in relation to measures to which Mr. Russell's sanction and signature stood equally pledged with their own, were at Paris, and in habits of almost daily intercourse with him. They little suspected the coloring which he was privately giving, without communication of it to them, of their conduct and opinions, to the head of the Government, by whom he and they had been jointly employed in a public trust of transcendent importance; or the uses to which this denunciation of them was afterwards to be turned.

Had the existence of this letter from Paris been, at the time when it was written, known to the majority of the mission, at whose proposal this offer had been made to that majority; who believed that the article was perfectly compatible with their instructions, consistent with the argument maintained by the mission, important for securing a very essential portion of the right to the fisheries, and in nowise affecting unfavorably the interest of any section of the Union, they would doubtless have felt that its contents called much more forcibly upon them to justify to their own

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Government themselves and their motives for making that proposal, than Mr. Russell could be called upon to justify himself for merely having been in the minority upon the question whether an article should be proposed, which he did actually concur in proposing, and which the adverse party had not thought worth accepting.

The writer of these remarks is not authorized to speak for his colleagues of the majority; one of whom is now alike beyond the reach of censure and panegyric; and the other, well able, when he shall meet this disclosure, to defend himself. But he believes of them, what he affirms of himself, that, had they entertained of the projected article, and of the argument maintained by the mission, the sentiments avowed in either of the variations of Mr. Russell's letter from Paris, no consideration would have induced them to concur in proposing it, or to subscribe their names to a paper declaring that they had no objection to it.

Still less, if possible, would they have thought it reconcileable with their duty to their country, had they entertained those sentiments, to have subscribed, on the 25th of December, 1814, the joint letter of the mission to the Secretary of State, already communicated to Congress, and on the same day to have written the separate and secret letter, fore-announcing that of 11th of February, 1815, from Paris.

Besides the memorable variation between the original and duplicate of the letter of 11th February, 1815, which has been exhibited in parallel passages extracted from them, there are others not less remarkable. In the course of the duplicate, the total and unqualified abandonment of the rights of the poor fishermen is compensated by an eloquent panegyric upon their usefulness to the country, their hardy industry, their magnanimous enterprise, and their patriotic self-devotion. Little of this appears in the original; and that little, in the after-thought of a postscript. Towards the close of the duplicate, the spirit of prophecy takes possession of the writer. By his "trust in God and in the valor of the West," he foresees the victory of General Jackson at New Orleans; he foresees the convention between the United States and Great Britain of October, 1818. In the original there is no prophecy; no "trust in God, and in the valor of the West."

With all these varieties, the two copies of the letter form an elaborate and deeply meditated dissertation to prove:

1. That the treaty between the United States and Great Britain of 1783—the treaty which upon its face is a treaty of independence, a treaty of boundaries, a treaty of partition, as well as a treaty of peace—was, in his estimation, (all his signatures at Ghent to the contrary notwithstanding,) a mere treaty of peace totally abrogated by the war of 1812.

2. That the same treaty was a treaty *sui generis*, consisting of two parts: one, of rights appertaining to sovereignty and independence; and the other, of special grants and privileges: of which the former were permanent, and the latter abrogated by the war.

3. That the principles assumed and the argument maintained by the majority of the Ghent mission, and to which he had subscribed his name in all the joint communications of the mission, as well to the British Plenipotentiaries as to his own Government, were a mass of errors, inconsistencies, and absurdities.

4. That the offer to the British Plenipotentiaries of a right to the British to navigate the Mississippi, was, in the opinion of the majority, and also in his own opinion, permitted by our instructions, and in no ways violated them.

5. That the same offer was directly contrary to the construction given by the majority to their instructions, and as he had always thought, and still thought, contrary to explicit and implicit, express and unqualified, prohibitions in those instructions.

6. That the offer of the right to navigate the Mississippi, as an equivalent for the fisheries, was the offer of an excessive price for a privilege worth little or nothing.

7. That, extravagant as that offer (to which he signed a letter declaring that he had no objection) was, it was rejected by the adverse party; because they thought it an offer of the dead for the living; or because they hoped to get still more for the worthless privilege; or because they expected, to take and keep Louisiana, and thus get the navigation of the Mississippi for nothing; or because they were blinded by the unhappy passions incident to war: but that he foresaw that they would hereafter grant all the valuable part of the same worthless privilege for nothing.

8. That there was no sort of relation whatsoever between a privilege for the British to navigate in waters within our jurisdiction, and a privilege for us to fish in waters within British jurisdiction; because one of these privileges had been stipulated in the third, and the other in the eighth article of the treaty of 1783; and therefore, that it was absurd to offer one as an equivalent for the other.

9. Lastly. That the offer to the British of the right to navigate the Mississippi was pregnant with mischief to the Western country—to "the unoffending citizens of an immense tract of territory, not at all, or but faintly, benefited by the fishing privilege, merely to provide for the doubtful accommodation of a few fishermen, annually decreasing in number, in a remote quarter, and entirely exempt from the danger."

Upon most of these points, so far as argument is concerned, it might, upon the mere statement of Mr. Russell's positions, be left to his ingenuity to refute itself. His first and second points, with regard to the character of the treaty of 1783, considered as doctrines, are evidently inconsistent with each other. The variation between the original and duplicate of his letter upon the fourth and fifth points is something more than inconsistency, something more even than self-contradiction. The whole letter is a laborious tissue of misrepresentation of every part of its subject; of the conduct and sentiments of his colleagues who constituted the majority of the mission; and of his own conduct and sentiments in opposition to them. It substantially charges them with delib-

erate and wanton violation, in the face of his solemn warning, of the positive and unequivocal instructions of their Government, for the sake of sacrificing the interest, the peace, the comfortable existence of the whole Western country, to the doubtful accommodation of a few Eastern fishermen, and in support of a claim to which they had not the shadow of a right.

I say it is a tissue of misrepresentations of the subject, of the conduct and sentiments of his colleagues, and of his own conduct in opposition to them.

1. Of the subject. Mr. Russell represents the offer of an article, granting to the British the right of navigating the Mississippi as an equivalent for the grant of a fishing privilege in British jurisdiction, as if it had been a separate and insulated proposal of new grants in a distinct article, without reference to the state of the negotiation at the time when it was made, to the occasion upon which it was made, and to the considerations by which it was induced.

Mr. Russell represents the article as if offered under circumstances when it was by both parties acknowledged that the British had no claim to territory to the Mississippi. This is a direct and positive perversion of the whole statement of the subject.

Mr. Russell represents the offer of a right to navigate the Mississippi, and of access to it from the British territories, as general and unqualified; as giving access to British traders and British emissaries to every part of the Western country, and to intercourse with all our Indians. The proposal was, of a limited access from a single spot of the British territory to the river, for the purpose of navigating the river with merchandise, upon which the duties of import should have been first paid.

In consequence of these misrepresentations, Mr. Russell brings in British smugglers, British emissaries, and all the horrors of Indian warfare, upon the Western country, as necessary inferences from a proposal—not that which was made, but that into which it is distorted by his misrepresentations.

2. Of the conduct and sentiments of his colleagues.

Mr. Russell represents his colleagues as having deliberately, and against his declared opinion, violated both the letter and the spirit of their most explicit and implicit, express and unequivocal, instructions from their own Government. He charges them, also, with having violated their own construction of their instructions.

It is true that, in another reading of the same letter, purporting to have been written on the same day, he acquits them entirely of all violation of their instructions, and declares he had always been of that opinion.

Mr. Russell ascribes to his colleagues opinions which they never entertained, arguments which they never advanced, and doctrines which they not only would disclaim with indignation, but diametrically opposite to those which they did maintain. He imputes to them the opinion that the independence of the United States was derived

only from the Treaty of Peace of 1783, and that all the rights stipulated by it, in favor of the people of the United States, were mere grants from the Crown of England. This was the British doctrine, which Mr. Russell well knew his colleagues rejected with disdain, but which he himself countenances, by maintaining the British side of the argument—that the fishing liberty, stipulated in the Treaty of 1783, was abrogated, *ipso facto*, by the war of 1812.

He imputes to them, as an inconsistency with their other imputed opinion, that they rested their claim to the fishing privilege upon prescription; and this notwithstanding all the light of learning with which he had irradiated them, from the lucid sources of "*jus mere facultatis*;" of "*ultra memoriam hominis*;" of "*nullum tempus regi occurrit*;" and of the imprescriptible character of fisheries. Of all this not one word was said at Ghent. The majority never asserted the right of the fishing privilege as resting upon the right of prescription; nor had they ever the benefit of Mr. Russell's learned labors to prove that it was not applicable to the subject.

3. Of his own conduct and sentiments in opposition to those of the majority of his colleagues.

The parallel passages from the original and duplicate of his letter remove all necessity for further proof of this. But that is not all. Throughout the letter, Mr. Russell holds himself forth as having been the intrepid and inflexible assertor and supporter of the rights of the West against the majority of his colleagues; as having, by a painful struggle, obtained a conquest over his early prejudices and local partialities; and enlarged his intellectual faculties and patriotism, to become the champion and vindicator of the interest of the West. Of all this, nothing was made known to his colleagues of the majority at Ghent. The article to which his letter conjures up such formidable objections was drawn up and proposed to the mission by a distinguished citizen of the Western country. It was opposed by another citizen from the same section of the Union. Of the five members of the mission Mr. Russell was the person who took the least part in the discussion. He neither objected that it was contrary to our instructions; nor depreciated the value of the fisheries; nor painted the dangers of British smugglers and emissaries, or the horrors of Indian warfare, as impending over the unoffending inhabitants of the Western country from the measure. He gave, it may be, a silent vote against proposing the article; and, when it was determined by the majority to propose it, concurred in proposing it; was present at the conferences with the British Plenipotentiaries when it was proposed to and discussed with them, and heard from them the reasons which induced them to reject it; which reasons did not embrace one of those which he has so severely tasked his sagacity to devise for them, but, plainly and simply, because they said it was clogged with conditions which made it of no value to them, or, at least, not of value to induce them to concede that our fishing liberties within British jurisdiction should continue, in return: and he afterwards signed a letter to the

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British Plenipotentiaries, together with all the other members of the mission, declaring that they had no objection to the article, considering it as merely declaratory.

If Mr. Russell had entertained at Ghent the sentiments relating to the measure disclosed in the duplicate, or even those avowed in the original of his letter, he is to account for it to his conscience and his country that he ever assented to it at all. He was not under the slightest obligation to assent to it. As an act of the majority, it would have been equally valid without his concurrence or signature as with it. More than one member of the mission, and on more than one occasion, signified his determination to decline signing the treaty, if particular measures, proposed by the British Plenipotentiaries, should be acceded to by the majority. A refusal by any one member to concur in any measure upon which a majority were agreed, would at least have induced the majority to reconsider their vote, and in all probability to have cancelled it. In a case of such transcendent importance as this, of high interests, generous policy, humane and tender sympathies, wantonly to be sacrificed, in defiance of the most express and unqualified instructions, to the paltry purpose of accommodating a few fishermen, destitute of all claim of right, how could Mr. Russell sit patiently in conference with the British Plenipotentiaries, and join in the offer of it to them? How could he subscribe his name to a letter declaring he had no objection to it? Had Mr. Russell dissented from this measure of the majority, and they had still persisted in it, he would doubtless have reported to his own Government the reasons of his dissent; his colleagues of the majority would in like manner have reported theirs; and the responsibility of each party would have rested, as it ought, upon their respective acts. To concur individually in the measure, to sign all the papers approving it, and then secretly to write to the Government a letter of censure, reproach, and misrepresentation, against it and those who proposed it, was indeed a shorter and easier process.

Mr. Russell, therefore, did not entertain or express at Ghent the opinions disclosed in his letter from Paris, and has been as unfortunate in the representation of his own conduct and sentiments as in that of the subject of his letter, and in that of the sentiments and conduct of his colleagues.

But there is a point of view more important than any regard to his conduct and sentiments in which his letter is yet to be considered. If there were any force in his argument against the measures, or any correctness in his statements against his colleagues, it is proper they should be sifted and examined.

Let us, therefore, examine the proposed article in both its parts: First, as relates to the fishing liberty for us; and, secondly, to the navigation of the Mississippi by the British. And in order to ascertain the propriety of the principles assumed, and of the measures adopted by the American Commissioners, as now in question, let us premise the state of things as they existed, and the circumstances under which this proposal was offered.

By the third article of the treaty of 1783, it was agreed that the people of the United States should continue to enjoy the fisheries of Newfoundland and the Bay of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time theretofore to fish; and, also, that they should have certain fishing liberties on all the fishing coast within the British jurisdiction of Nova Scotia, Magdalen islands, and Labrador. The title by which the United States held those fishing rights and liberties was the same. It was the possessory use of the right, or, in Mr. Russell's more learned phrase, of the "*jus merae facultatis*," at any time theretofore as British subjects, and the acknowledgment by Great Britain of its continuance in the people of the United States after the treaty of separation. It was a national right; and, therefore, as much a right, though not so immediate an interest, to the people of Ohio and Kentucky—ay, and to the people of Louisiana, after they became a part of the people of the United States—as it was to the people of Massachusetts and Maine; the latter had always used it since they had been British colonists, and the coasts had been in British dominions. But, as the settlement of the colonies themselves had not been of time immemorial, it was not, and never was pretended to be, a title by prescription.

Such was the title of the United States to the fisheries—prior possession, and acknowledgment by the treaty of 1783.

The Commissioners at Ghent had received from the Secretary of State a letter of instruction dated 25th of June, 1814, containing the following passage:

"Information has been received from a quarter deserving of attention, that the late events in France have produced such an effect on the British Government as to make it probable that a demand will be made at Gottenberg to surrender our right to the fisheries, to abandon all trade beyond the Cape of Good Hope, and to cede Louisiana to Spain. We cannot believe that such a demand will be made; should it be, you will, of course, treat it as it deserves. These rights must not be brought into discussion. If insisted on, your negotiations will cease."

Now, it is very true that a majority of the Commissioners did construe these instructions to mean that the right to the fisheries was not to be surrendered. They did not subtilize, and refine, and inquire whether they could not surrender a part, and yet not bring the right into discussion; whether we might not give up a liberty, and yet retain a right; or whether it was an argument or an agreement that was forbidden. They understood that the fisheries were not to be surrendered.

The demand made by the British Government was first advanced in an artful and ensnaring form. It was by assuming the principle that the right had been forfeited by the war, and by notifying the American Commissioners, as they did at the first conference, "that the British Government did not intend to grant to the United States, gratuitously, the privileges formerly granted by treaty to

them—of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the fisheries." Now, to obtain the surrender of thus much of the fisheries, all that the British Plenipotentiaries could possibly desire was, that the American Commissioners should acquiesce in the principle that the treaty of 1783 was abrogated by the war. Assent to this principle would have been surrender of the right. Mr. Russell, if we can make any thing of his argument, would have assented and surrendered, and comforted himself with the reflection that, as the right had not been brought into discussion, the instructions would not have been violated.

But, however clearly he expresses this opinion in his letter, and however painfully he endeavors to fortify it by argument, he never did disclose it to the same extent at Ghent. The only way in which it was possible to meet the notification of the British Plenipotentiaries, without surrendering the rights which it jeopardized, was by denying the principle upon which it was founded. This was done by asserting the principle, that the treaty of independence of 1783 was of that class of treaties, and the right in question of the character which are not abrogated by a subsequent war; that the notification of the intention of the British Government not to renew the grant could not affect the right of the United States, which had not been forfeited by the war; and that, considering it as still in force, the United States needed no new grant from Great Britain to revive, nor any new article to confirm it.

This principle, I willingly admit, was assumed and advanced by the American Commissioners at my suggestion. I believed it not only indispensably necessary to meet the insidious form in which the British demand of surrender had been put forth, but sound in itself, and maintainable on the most enlarged, humane, and generous principles of international law. It was asserted and maintained by the American Plenipotentiaries at Ghent; and if, in the judgment of Mr. Russell, it suffered the fishing liberty to be brought into discussion, at least it did not surrender the right.

It was not acceded to by the British Plenipotentiaries. Each party adhered to its asserted principle; and the treaty was concluded without settling the interest involved in it. Since that time, and after the original of Mr. Russell's letter of the 11th February, 1815, was written, the principle asserted by the American Plenipotentiaries at Ghent has been still asserted and maintained through two long and arduous negotiations with Great Britain, and has passed the ordeal of minds of no inferior ability. It has terminated in a new and satisfactory arrangement of the great interest connected with it, and in a substantial admission of the principle asserted by the American Plenipotentiaries at Ghent, by that convention of the 20th October, 1818, which, according to the duplicate of Mr. Russell's letter, he foresaw, in February, 1815, even while writing his learned dissertation against the right which he had been

instructed not to surrender, and the only principle by which it could be defended.

At this time, and after all the controversy through which the American principle was destined to pass, and has passed, I, without hesitation, reassert, in the face of my country, the principle which, in defence of the fishing liberties of this nation, was, at my suggestion, asserted by the American Plenipotentiaries at Ghent.

I deem this reassertion of it the more important, because, by the publication, at this time, of Mr. Russell's letter, that Plenipotentiary has not only disclaimed all his share in the first assertion of it, but has brought to bear all the faculties of his mind against it; while the American side of the argument, and the reasons by which it has been supported against arguments coinciding much with those of his letter, but advanced by British reasoners, are not before the public. The principle is yet important to great interests, and to the future welfare of this country.

When first suggested, it obtained the unanimous assent of the American mission. In their note of the 10th November, 1814, to the British Plenipotentiaries, which accompanied their first project of a treaty, they said, "in answer to the declaration made by the British Plenipotentiaries respecting the fisheries, the undersigned, referring to what passed in the conference of the 9th August, can only state, that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the treaty of 1783, by which they were recognised, no further stipulation has been deemed necessary, by the Government of the United States, to entitle them to the full enjoyment of all of them." This paragraph was drawn up and proposed to the mission by the member with whom Mr. Russell concurred in objecting to the proposal of an article confirmative of the fishing liberties and navigation of the Mississippi, and as a substitute for it. The mission unanimously accepted it; and the fishing liberties being thus secured from *surrender*, no article relating to them or to the Mississippi was inserted in the project sent to the British mission.

But one of the objects of the negotiation was to settle the boundary between the United States and the British dominions, from the northwest corner of the Lake of the Woods, westward. That boundary, by the treaty of 1783, had been stipulated to be "from the most northwestern point of the Lake of the Woods, on a *due west* course to the river Mississippi; and thence, down the middle of the Mississippi, to the thirty-first degree of north latitude;" while, by the eighth article of the same treaty, it had been stipulated that "the navigation of the river Mississippi, from its source to the ocean, should forever remain free and open to the subjects of Great Britain and the citizens of the United States."

The right of Great Britain and of the United States, at the time of the treaty of 1783, to make this stipulation with regard to the navigation of the Mississippi, might be, and afterwards was,

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questioned by Spain, then a possessor also of territories upon the same river, and indeed of both its banks from its mouth to a higher latitude than that thus stipulated as the boundary of the United States. But, as between Great Britain and the United States, there could, at the time of the conclusion of the treaty of 1783, be no possible question of the right of both to make the stipulation; the boundary line itself being in substance a concession of territory to the river, and down its middle to latitude thirty-one, which Great Britain was undoubtedly competent to make, and the United States to receive. Now, the United States having received the cession and the boundary, with the right to navigate the river, with the express condition that the navigation of the river should forever remain free and open to British subjects; and having expressly assented to that condition, without considering it as infringing upon any right of Spain; they could not, consistently with good faith, by acquiring afterwards the right of Spain, allege that this acquisition absolved them from the obligation of the prior engagement with Great Britain. There is, indeed, in Mr. Russell's letter, a hesitating argument to that effect; the odious character of which is but flimsily veiled by its subtlety. The United States had always insisted upon their right of navigating the Mississippi by force of the article of the treaty of 1783, and had obtained the acknowledgment of that right from Spain herself, many years before they acquired her territorial right by the purchase of Louisiana. With what front, then, could an American negotiator have said, after the latter period, to a British Minister: You have no right to the navigation of the Mississippi; for although, on receiving from you a part of the river, we expressly stipulated that you should forever enjoy a right to its navigation, yet that engagement was a fraud upon the rights of Spain; and, although, long before we had acquired these rights of Spain, she had acknowledged *our* right to navigate the river, founded upon this very stipulation of which you now claim the benefit, yet I will now not acknowledge your right, founded on the same stipulation. Spain, no party to the compact between you and me, after controverting it as infringing upon her rights, finally acceded to its beneficial application to us, as compatible with those rights. But we, who made the compact with you, having now acquired the adverse rights of Spain, will not allow you the beneficial use of our own compact. We first swindled and then bullied Spain out of her rights, by this eighth article of the treaty of 1783; and now, having acquired ourselves those rights, we plead them for holding our engagement with you for a dead letter.

This, and nothing more or less than this, is the substance of Mr. Russell's argument to show that perhaps the United States were, by the acquisition of Louisiana, absolved from the obligation of the eighth article of the treaty of 1783, even before the war of 1812.

But, says Mr. Russell, the treaty of 1783 was made under a belief of both parties that it would leave Great Britain with a portion of territory

upon the Mississippi, and therefore entitled to claim the right of navigating the river. But the boundary line of the treaty of 1783 was a line from the northwesternmost point of the Lake of the Woods, due west to the Mississippi. And after the treaty of 1783, but before the war of 1812, it had been found that a line due west from the northwest corner of the Lake of the Woods did not strike the Mississippi; therefore, continues Mr. Russell, Great Britain could claim no territorial right to the navigation of the river; and therefore had no longer any claim to the benefit of the eighth article of the treaty of 1783.

To this it may be replied: first, that the British claim of right to navigate the Mississippi was not founded solely on the territory which it was believed they would retain upon that river, by the boundary west from the Lake of the Woods. The eighth article of the treaty of 1783 was a separate and distinct article, stipulating the right of both nations to navigate the river, without any reference to boundary or to territory. But the boundary, the territory, and the right to navigate the river, were all, in that treaty, cessions from Great Britain to the United States. And had it even been the intention of both parties that Britain should cede the whole of her territories on the Mississippi, it was yet competent to her to reserve the right of navigating the river for her subjects, in common with the people of the United States; and competent for the United States to accept the cession, subject to that reservation. They did so, by the eighth article of the treaty. And, in this point of view, the British right of navigating the river within the American territory was precisely similar to the American liberty of fishing within the British territorial jurisdiction, reserved by the third article of the same treaty.

But, secondly, the discovery that a line due west from the northwesternmost corner of the Lake of the Woods would not strike the Mississippi, had not deprived Great Britain of all claim to territory upon that river, at the time of the negotiation at Ghent. The line described in the treaty was, from the northwesternmost point of the Lake of the Woods, "on a due west course to the river Mississippi." When it was found that a line due west did not touch the Mississippi, this boundary was annulled by the fact. It remained an unsettled boundary, to be adjusted by a new agreement. For this adjustment, the moral obligation of the parties was to adopt such a line as should approximate as near as possible to the intentions of both parties, in agreeing upon the line for which it was to be substituted. For ascertaining this line, if the United States were entitled to the benefit of the words "on a due west course," Britain was equally entitled to the benefit of the words "to the river Mississippi." Both the demands stood on the same grounds. Before the war of 1812, three abortive attempts had been made by the parties to adjust this boundary. The first was by the treaty of 1794, when it was already conjectured, but not ascertained, that the line due west from the lake would not intersect the Mississippi. By the fourth article of the treaty

of 1794, it was agreed that a joint survey should be made to ascertain the fact; and that if, on the result of that survey, it should appear that the west line would not intersect the river, the parties would proceed, "by amicable negotiation, to regulate the boundary line in that quarter, according to justice and mutual convenience, and in conformity to the intent of the treaty of 1783." This survey was never made. The second attempt to adjust the line was by the convention signed on the 12th of May, 1803, by Mr. King and Lord Hawkesbury; the fifth article of which, after reciting the same uncertainty whether a line drawn due west from the Lake of the Woods would intersect the Mississippi, provided that, instead of the said line, the boundary of the United States, in that quarter, should, and was declared to be, the shortest line which could be drawn between the northwest point of the Lake of the Woods and the nearest source of the river Mississippi. This convention not having been ratified, the third attempt at adjustment had been made in the negotiation of Mr. Monroe and Mr. Pinkney, of 1806 and 1807; at which an article had been proposed, and agreed to, that the line should be from the most northwestern point of the Lake of the Woods to the forty-ninth parallel of latitude; and from that point, due west, along and with the said parallel, as far as the respective territories extend in that quarter. And with that article was coupled another, as follows:

"It is agreed by the United States, that His Majesty's subjects shall have, at all times, free access from His Majesty's aforesaid territories, by land or inland navigation, into the aforesaid territories of the United States, to the river Mississippi, with the goods and effects of His Majesty's said subjects, in order to enjoy the benefit of the navigation of that river, as secured to them by the treaty of peace between His Majesty and the United States, and also by the third article of the treaty of amity, commerce, and navigation of 1794. And it is further agreed, that His Majesty's subjects shall, in like manner, and at all times, have free access to all the waters and rivers falling into the western side of the river Mississippi, and to the navigation of the said river."

This negotiation was suspended by a change of the British ministry, and was not afterwards resumed. But the following observations upon the two articles, contained in a letter from Mr. Madison to Messrs. Monroe and Pinkney, of the 30th July, 1807, show how far Mr. Jefferson, then President of the United States, had authorized those commissioners to accede to them:

"Access by land or inland navigation from the British territories, through the territory of the United States, to the river Mississippi, is not to be allowed to British subjects, with their goods or effects, unless such articles shall have paid all the duties, and be within all the custom-house regulations applicable to goods and effects of citizens of the United States. An access through the territory of the United States to the waters running into the western side of the Mississippi is, under no

modification whatever, to be stipulated to British subjects."

Such, then, was the state of things, in relation to this interesting question, at the time when the war of 1812 broke out; and, at the negotiation of Ghent, the same question of boundary again occurred for adjustment. The right of the British to a line from the Lake of the Woods to the Mississippi had never been renounced; and at the last negotiation between the parties, four years after the United States had acquired Louisiana, and with it all the Spanish rights upon the Mississippi, the British Government, in assenting to take the forty-ninth parallel of latitude as a substitute for the line to the Mississippi, had expressly restipulated for the free navigation of the river, and free access to it from our territories; to both of which Messrs. Monroe and Pinkney had been explicitly authorized to accede.

Under this state of things, it had never been admitted by the British, nor could we maintain against them by argument even, that the Mississippi river was within our exclusive jurisdiction; for so long as they had a right by treaty to a line of boundary to that river, and consequently to territory upon it, they also had jurisdiction upon it; nor, consequently, could the instructions of 15th April, 1813, had they even been still in full force, have restricted the American Commissioners from making or receiving a proposition for continuing to the British, the right of navigating the river, which they had enjoyed, without ever using it, from the time of the treaty of 1783, when the United States had received, by cession from them, the right of enjoying it jointly with them.

Bearing in mind this state of things, we are also to remember that, in the conference of 19th August, 1814, and in the letter of that date from the British to the American Plenipotentiaries, (see Wait's State Papers, vol. 9, pp. 334, 338,) they had claimed a new Northwestern boundary line from Lake Superior to the Mississippi, and the free navigation of that river. To this the American Commissioners had answered, on the 24th of August, 1814: The undersigned perceive that the British Government "propose, without purpose specifically alleged, to draw the boundary line westward, not from the Lake of the Woods, as it now is, but from Lake Superior:" and they objected to it, as demanding a cession of territory.

The British Plenipotentiaries, on the 4th of September, 1814, replied:

"As the necessity for fixing some boundary for the Northwestern frontier has been mutually acknowledged, a proposal for a discussion on that subject cannot be considered as a demand for a cession of territory, unless the United States are prepared to assert that there is no limit to their territories in that direction; and that, availing themselves of the geographical error upon which that part of the treaty of 1783 was formed, they will acknowledge no boundary whatever; then, unquestionably, any proposition to fix one, be it what it may, must be considered as demanding a large cession of territory from the United States.

"Is the American Government prepared to as-

sert such an unlimited right, so contrary to the evident intention of the treaty itself? Or, is His Majesty's Government to understand that the American Plenipotentiaries are willing to acknowledge the boundary from the Lake of the Woods to the Mississippi (the arrangement made by a convention in 1803, but not ratified,) as that by which their Government is ready to abide?

"The British Plenipotentiaries are instructed to accept favorably such a proposition, or to discuss any other line of boundary which may be submitted for consideration."

I stop here for a moment to observe, how instinctively, if the expression may be allowed, both the parties in this correspondence recur to the treaty of 1783, with a consciousness that it was yet in full force, as an appeal for either in support of its claims. The expression in the above American note applied to the boundary "as it now is;" the reference of the British note to the geographical error in the treaty of 1783, and their willingness to discuss the arrangement of 1803, (the shortest line from the Lake of the Woods to the Mississippi.) Both acknowledge the treaty of 1783 as the basis of all proposition and all argument, and as being yet in force for every thing which should not be otherwise provided for in the new treaty.

In their note of 21st October, 1814, the British Commissioners said:

"On the subject of the fisheries, the undersigned expressed with so much frankness, at the conference already referred to, the views of their Government, that they consider any further observations on that topic as unnecessary at the present time.

"On the question of the boundary between the dominions of His Majesty and those of the United States, the undersigned are led to expect, from the discussion which this subject has already undergone, that the Northwestern boundary, from the Lake of the Woods to the Mississippi, (the intended arrangement of 1803,) will be admitted without objection."

Thus stood the parties and the subject, when, on the 10th of November, 1814, the American Plenipotentiaries sent the first projet of a treaty to the British Commissioners. It contained no article relating either to the fisheries or to the Mississippi; but, in the note which accompanied it, to meet the notification twice given on the part of the British Government, that they did not intend to grant, without equivalent, the liberty of fishing within the British jurisdiction, the counter-notification, already noticed, was introduced, informing them that the American Government did not consider the fishing liberties as forfeited by the war, and that they would remain in full force, without needing any new grant to confirm them. At this stage of the negotiation, therefore, the American Plenipotentiaries did actually pursue the first of those three *other* ways of proceeding, which Mr. Russell, in the postscript to the original of his letter of 11th February, 1815, says they might have taken, and to which he adds that he would have assented, namely: to contend for the continuance of the fishing privilege, notwithstanding

ing the war, without saying any thing about the navigation of the Mississippi. It cannot but be surprising to find Mr. Russell, within three months after these events, writing privately to the Secretary of State, stating this as a course other than that which we had pursued, and that he would have assented to it if we had; when it was the very course that we did pursue, and he had assented to it. We did contend, not for the indestructibility, as Mr. Russell terms it, of the treaty of 1783; but that, from its peculiar character, it was not abrogated by the mere occurrence of war. We never maintained that the treaty of 1783 was indestructible or imperishable; but that the rights, liberties, and boundaries, acknowledged by it as belonging to us, were not abrogated by mere war. We never doubted, for example, that we might be compelled to stipulate a new boundary; but that would have been, not as a consequence of mere war, but the effect of conquest resulting from war. The difference between our principle and that of the British was, that they, considering the rights acknowledged as belonging to us by the treaty as mere grants, held them as annulled by war alone; while we, viewing them as rights existing before the treaty, and only acknowledged by it, could not admit them to be forfeited without our own assent. Britain might have recovered them by conquest; but that could not be consummated without our acquiescence, tacit or expressed. Mr. Russell, who assented to our principle, and asserted it with us, now says he always thought the British principle was the true one. If the American mission, at that trying time, had acted upon it, he never would have prophesied the convention of October, 1818.

The eighth article of the projet of a treaty, sent by the American Commissioners on the 10th of November, offered the boundary which had been proposed in 1807, a line north or south to latitude 49°, and westward, on that parallel, as far as the territories of the two countries extended; and said nothing about the Mississippi. But when, on the 26th of November, the British Plenipotentiaries returned the projet with their proposed amendments, they accepted the 49th parallel westward from the Lake of the Woods for the boundary, but with the following addition to the article: "And, it is further agreed, the subjects of His Britannic Majesty shall at all times have access, from His Britannic Majesty's territories, by land or inland navigation, into the aforesaid territories of the United States to the river Mississippi, with their goods, effects, and merchandise; and that His Britannic Majesty's subjects shall have and enjoy the free navigation of the said river."

It was to meet this demand that, at the conference of the 1st of December, the American Plenipotentiaries proposed to strike out all those words, and to substitute the amendment contained in the protocol of that conference, already communicated to Congress. It was thus that the relation which Mr. Russell, within three months afterwards, so singularly professes not to perceive between the fishing liberties and the Mississippi navigation, not only naturally arose, but forced

itself upon the American Plenipotentiaries. They had saved the fishing liberties from surrender, as they had been specially instructed to do, by asserting that the treaty of 1783 had not been abrogated *ipso facto* by the war. Two days before receiving this counter-projet, they had received from Washington a fresh instruction, expressly authorizing them to conclude a treaty on the basis of the *status ante bellum*, including, of course, the fishing liberty on one side, and the navigation of the Mississippi on the other. They could not, therefore, consistently with those instructions, either reject this British demand, or abandon to surrender the fisheries. They offered, therefore, the amendment containing the renewed acknowledgment of both; and they said to the British Plenipotentiaries: We have told you that we consider all the rights secured to us by the treaty of 1783 as still in force. What we demand, if you assent to it, we must yield in return. If, as we say, the treaty of 1783 is yet in force, you have the right of navigating the Mississippi, and we have the fishing rights and liberties unimpaired. If, as you say, the treaty is abrogated, how can you claim the right of navigating the Mississippi? You must admit the one, or not demand the other. We offer you the alternative of a new stipulated admission of both, or a total omission of both. We offer you in application the choice of our principle or of your own.

The British Commissioners took the proposal for reference to their Government, by whom it was immediately rejected. But, to show how anxious they were to obtain from us the surrender of our fishing liberties, and how cheaply they valued the right of navigating the Mississippi, as one of the last expedients of negotiation, they offered us an article, agreeing that, after the peace, the parties would further negotiate "respecting the terms, conditions, and regulations, under which the inhabitants of the United States" should again enjoy the fishing liberties, "in consideration of a fair equivalent, to be agreed upon between His Majesty and the said United States, and granted by the said United States for such liberty aforesaid;" and a reciprocal stipulation with regard to the British right of navigating the Mississippi. As the parties after the peace would have been just as competent further to negotiate on these points, if so disposed, without this article as with it, its only effect would have been a mutual surrender, on the American side, of the fishing liberties, and, on the British side, of the right to navigate the Mississippi; with this difference, that we should have surrendered, in direct violation of our instructions, a real, existing, practical liberty, which, even in the war of our independence, had been deemed of the highest importance, and at its close had been with infinite difficulty secured: a liberty, of which that portion of the Union whom it immediately concerns, had been, from the time of the treaty of 1783, in the constant, real, and useful possession; while the British would have surrendered absolutely nothing—a right which, by inference from their own principle, was abrogated by the war; a right

which, under the treaty of 1783, they had enjoyed for thirty years without ever using it; and which, in all human probability, never would have been of more beneficial use to the British nation, than would be, to the people of the United States, the right of navigating the Bridgewater canal or the Danube.

There was certainly an inconsistency on the part of the British Government, in claiming a right to navigate the Mississippi, while asserting that the treaty of 1783 was abrogated by the war: and when pressed by us to say on what principle they claimed it without offering for it an equivalent, they said the equivalent was their acceptance of the forty-ninth parallel of latitude for the Northwestern boundary, instead of the line to which they were entitled by the treaty of 1783—to the Mississippi. As they gave up the line to the river, they said they had a right to reserve its navigation, and access to it for that purpose. They had said the same thing to Messrs. Monroe and Pinkney in 1807; and the principle had been assented to by them, with the subsequent sanction of President Jefferson. Still, the whole argument leaned upon the continuing validity of the treaty of 1783; for the boundary line, as well as the Mississippi navigation, was null and void, if that treaty was abrogated. We replied to them, that, although we were willing to agree to the forty-ninth parallel of latitude for the boundary, and thought it of mutual interest that the line should be fixed, we were yet not tenacious of it: we could not agree to their article of mutual surrender, with a pledge of future negotiation; but we would consent to omit the boundary article itself, and leave the whole subject for future adjustment. And to this they finally agreed.

The advantage of this to us was, that we came out of the war without having surrendered the fishing liberties, as they had been enjoyed before, and stipulated at the treaty of 1783. We were still free to maintain, and we did, after the conclusion of peace, effectively maintain, the existence of the right, notwithstanding the intervening war. The British Government still insisted that the treaty of 1783 was abrogated by the war: but when called upon to show, why then they treated the United States as an independent nation, and why, in the Treaty of Ghent, they had agreed to four several commissions to ascertain boundaries, "according to the true intent and meaning of that same treaty of 1783," they finally answered, that they considered our independence, and the boundaries, as existing facts, like those of other nations, without reference to their origin. This left nothing but a dispute about words; for we applied the same principle to the fishing liberties of the third article, which they conceded with regard to the acknowledgment of independence and to the boundaries. They considered the whole treaty of 1783 as a British grant. We considered it as a British acknowledgment. They never drew the nice distinction, attempted by Mr. Russell, between a perishable and imperishable part of the treaty, or admitted that it consisted of rights which they could not, and of privileges which they could,

resume without our consent. By their principle, they might have resumed the whole: and when they notified to us, at Ghent, that they did not intend to grant us again the fishing liberties within their exclusive jurisdiction, but that they meant to leave us the right of fishing in the open sea, they gave us distinctly enough to understand that they were treating us with magnanimity in not resuming the whole. There was, in truth, no difference in the principle; and Mr. Russell, in consulting his Vattel, to find that fishing rights were *jura meræ facultatis*, and, therefore, imprescriptible, ought to have seen what that writer very explicitly says—not that they were rights which could not be acquired by long usage, but rights which could not be lost by non-user. He ought also to have seen, what Vattel no less clearly lays down, that, although a nation may appropriate to itself a fishery upon its own coasts and within its own jurisdiction, yet, “if it has once acknowledged the common right of other nations to come and fish there, it can no longer exclude them from it; it has left that fishery in its primitive freedom, at least with respect to those who have been in possession of it.” And he cites the herring fishery on the coast of England, as being common to them with other nations, because, they had not appropriated it to themselves from the beginning.

In perusing the letter of Mr. Russell, whether original or duplicate, I cannot but reflect with gratitude to Providence upon the slender thread by which the rights of this nation to the fisheries were in fact suspended at the negotiation of Ghent. Positive and precise as our instructions were, not to surrender them, if Mr. Russell had disclosed at Ghent the opinions avowed in either version of his letter; if he had so broadly asserted and so pertinaciously maintained his conviction of the utter worthlessness of the fisheries, in comparison with the exclusion of the British from a mere phantom of right to navigate the Mississippi, which they had always enjoyed without use, without benefit to themselves or injury to us; if he had so learnedly disserted to prove that the treaty of 1783 was totally and absolutely abrogated by the war; if he had so thoroughly inverted the real state of the question, and painted it in such glowing colors as a sacrifice of the deep, real interests of the West, to a shallow, imaginary interest of the East; if, with that perseverance which is the test of sincerity, he had refused to sign the proposal determined upon by the majority of his colleagues, and given them notice that he should transmit to his Government the vindication of himself and his motives for differing from them; and, above all, if another mind could have been found in the mission capable of concurring with him in those views, it would at least have required of the majority an inflexibility of fortune, beyond that of any trial by which they were visited, to have persevered in their proposal. Had they concurred with him in his opinion of the total abrogation of the treaty of 1783, by the mere fact of the war, the fisheries in the Gulf of St. Lawrence, on the coast of Labrador, and to an indefinite extent

from the Island of Newfoundland, were lost to the United States forever; or at least till the indignant energy of the nation should have recovered, by conquest, the rights thus surrendered to usurpation. In notifying to us that the British Government intended not to renew the grant of the fisheries within British jurisdiction, they had not said what extent they meant to give to these terms. They had said they did not mean to extend it to the right of the fisheries, generally, or in the open seas, enjoyed by all other nations. (See letter of the American Commissioners to the Secretary of State of the 12th August, 1814. *Wait's State Papers*, vol. 9, p. 321.) But there was not wanting historical exposition of what Great Britain understood by her exclusive jurisdiction as applied to these fisheries. In the twelfth article of the Treaty of Utrecht, by which Nova Scotia or Acadia had been ceded by France to Great Britain, the cession had been made “in such ample manner and form, that the subjects of the Most Christian King shall hereafter be excluded from all kind of fishing in the said seas, bays, and other places on the coast of Nova Scotia; that is to say, on those which lie towards the east, within thirty leagues, beginning from the island commonly called Sable, inclusively, and thence along towards the southwest.”

By the thirteenth article of the same treaty, French subjects were excluded from fishing on any other part of the coast of the Island of Newfoundland than from Cape Bonavista northward, and thence westward to Point Riche. By the fifteenth article of the Treaty of Utrecht, between Great Britain and Spain, certain rights of fishing at the island of Newfoundland had been reserved to the Guipuscoans, and other subjects of Spain; but in the eighteenth article of the treaty of peace between Great Britain and Spain, of 1763, His Catholic Majesty had desisted, “as well for himself as for his successors, from all pretension which he might have formed, in favor of the Guipuscoans and others his subjects, to the right of fishing in the neighborhood of the island of Newfoundland.” In these several cases, it is apparent that Great Britain had asserted and maintained an exclusive and proprietary jurisdiction over the whole fishing grounds of the Grand Bank, as well as on the coast of North America, and in the Gulf of St. Lawrence. Nor are we without subsequent indications of what she would have considered as her exclusive jurisdiction, if a majority of the American Commission at Ghent had been as ready, as Mr. Russell declares himself to have been, to subscribe to her doctrine, that all our fishing liberties had lost, by the war, every vestige of right; for, in the Summer of 1815, the year after the conclusion of the peace, her armed vessels on the American coast warned all American fishing vessels not to approach within sixty miles of the shores.

It was this incident which led to the negotiations which terminated in the Convention of 20th October, 1818. In that instrument the United States have renounced forever that part of the fishing liberties which they had enjoyed, or claim-

ed, in certain parts of the exclusive jurisdiction of the British provinces, and within three marine miles of the shores. This privilege, without being of much use to our fishermen, had been found very inconvenient to the British; and, in return, we have acquired an enlarged liberty, both of fishing and drying fish, within the other ports of the British jurisdiction, forever. The first article of this Convention affords a signal testimonial of the correctness of the principle assumed by the American Plenipotentiaries at Ghent; for, by accepting the express renunciation by the United States of a small portion of the privilege in question, and by confirming and enlarging all the remainder of the privilege forever, the British Government have implicitly acknowledged that the liberties of the third article of the treaty of 1783 had not been abrogated by the war, and have not given the final stroke to the opposite doctrine of Mr. Russell. That words of perpetuity, in a treaty, cannot give that character to the engagements it contains, is not indeed a new discovery in diplomatic history; but that truism has as little concern with this question as the annulment of our treaty of 1778 with France, so aptly applied to it in his letter. It is not, therefore, the word *forever*, in this convention, which will secure to our fishermen, for all time, the liberties stipulated and recognised in it; but it was introduced by our negotiators, and admitted by those of Great Britain, as a warning, that we shall never consider the liberties secured to us by it as abrogated by mere war. They may, if they please, in case of a war, consider the convention as abrogated, but the privileges as existing, without reference to their origin. But they and we, I trust, are forever admonished against the stratagem of demanding a surrender, in the form of notifying a forfeiture. They and we are aware, forever, that nothing but our own renunciation can deprive us of the right.

The second article of this same convention affords a demonstration equally decisive, how utterly insignificant and worthless, in the estimation of the British Government, was this direfully dreaded navigation of the Mississippi. The article gives us the forty-ninth parallel of latitude for the boundary, and neither the navigation of the river, nor access to it, was even asked in return.

These are conclusive facts—facts appealing not to the prejudices or the jealousies, but to the sound sense and sober judgment of men. Without yielding at all to Mr. Russell in my “trust in God and the valor of the West,” I have an equal trust in the same Divine Being as connected with the justice of the West. I have the most perfect and undoubting reliance that, to the clear-sighted intelligence of the western country, the gorgons, and hydras, and chimeras dire, of Mr. Russell’s imagination, raised by incantation from the waters of the Mississippi, will sink as they rose, and be seen no more. Without professing to sacrifice any of those ties of duty and allegiance which bind me to the interest of my native State, I cannot allow Mr. Russell’s claim to a special ardor for the welfare of the West to be superior to my own, or to that of the deceased, or of the living colleague

with whom I concurred, without mental reservation, in the measure subscribed to, and denounced by Mr. Russell. We were all the Ministers of the whole Union; and sure I am that every member of the majority would have spurned with equal disdain the idea of sacrificing the interest of any one part of the Union to that of any other, and the uncandid purpose of awakening suspicions at the source of their common authority here against the patriotism and integrity of any one of his colleagues.

I shall conclude with a passing notice of the three alternatives, which, in the postscript to the original of his letter of 14th of February, 1815, he says we might have taken instead of that which, as he alleges, we, against his will, did do. “We had,” says he, “three other ways of proceeding:

“1st. To contend for the indestructibility of the treaty of 1783; thence inferring the continuance of the fishing privilege, without saying any thing about the navigation of the Mississippi, which would have reserved our right of contesting this navigation on the grounds I have mentioned as specially applicable to it. 2. To have considered the treaty at an end, and to have offered a reasonable equivalent, wherever it might be found, for the fishing privilege. 3d. To have made this liberty a *sine qua non* of peace, as embraced by the principle of *status ante bellum*.

“To either of these propositions,” he adds, “I would have assented; but I could not consent to grant or revive the British right to the navigation of the Mississippi.”

He could not consent! He did consent: see his name subscribed to the letter from the American to the British Plenipotentiaries of 12th December, 1814, p. 44, of the Message of 25th February last.

It is, indeed, painful to remark here, and throughout this letter of Mr. Russell, how little solicitude there is discoverable to preserve even the appearance of any coincidence between his real sentiments and his professions: half his letter is an argument in form to prove that the treaty of 1783 was abrogated by the war; yet he says he would have assented to contend for its indestructibility, so long as it applied only to the defence of the fisheries, reserving his special grounds of objection to its being applied to the navigation of the Mississippi. I have shown that the indestructibility of the treaty of 1783 never was asserted by any of the American Commissioners; but that the principle that it had not been abrogated by the war, and that none of the rights stipulated and recognised in it, as belonging to the people of the United States, could be abrogated, but by their own renunciation, was at first assumed in defence of the fisheries only, and without saying any thing of the Mississippi. When, therefore, the demand for the navigation of the Mississippi came from the British Plenipotentiaries, Mr. Russell’s special objections to the application of our principle, in favor of our demand, might have been urged. But what were these special objections? I have shown that they were our own wrong—fraud and extortion upon Spain, to justify perfidy to Great Britain. Mr. Russell never did allege these ob-

Jonathan Russell—Treaty of Ghent.

jections at Ghent: and, if he had, a majority of the American Mission would assuredly have been ashamed to allege them to the British Government.

The second way of proceeding, to which Mr. Russell says he would have assented, was to consider the treaty of 1783 at an end, and offer for the fishing privilege a reasonable equivalent, wherever it might be found. And where would he have found it? He will not affirm that we had authority to offer any equivalent whatever; we had been specially instructed not to surrender them. He says he would have surrendered, and purchased them at a reasonable price again.

The third substitute, to which he says he would have assented, is the strongest of all. He says he would have made it a *sine qua non* of peace, as embraced by the principle of *status ante bellum*.

A *sine qua non* for the *status ante bellum*! And yet he could not consent to grant or revive the British right to the navigation of the Mississippi, in order to procure or preserve the fishing liberty; when the *status ante bellum* would have given them not only the whole treaty of 1783, but the permanent articles of the treaty of 1794; not only the navigation of the Mississippi, but unrestrained access to our territories and intercourse with our Indians.

I have shown that the most aggravated portion of Mr. Russell's charge against his colleagues of the majority—that of wilful violation of positive and unequivocal instructions, by a senseless offer to the British Plenipotentiaries, sacrificing an important western to a trifling eastern interest—is not only utterly destitute of foundation, but that it was not even made; nay, more, that it was distinctly contradicted by the letter really written by Mr. Russell at Paris, on the 11th of February, 1815. Into Mr. Russell's motive for introducing it into the duplicate of that letter, delivered by himself at the Department of State, to be communicated to the House as the letter called for by their resolution, I shall not attempt to penetrate; having, as I trust, equally shown that the charges implied in the real letter are as groundless as their aggravations in the duplicate. The professions of unfeigned respect for the integrity, talents, and judgment of those colleagues whose conduct is, in the same letter, represented as so weak, absurd, and treacherous, I can, for my own part, neither accept nor reciprocate. To have been compelled to speak, as in these remarks I have done, of a person distinguished by the favor of his country, and with whom I had been associated in a service of high interest to this Union, has been among the most painful incidents of my life. In the defence of myself and my colleagues against imputations so groundless in themselves, at first so secretly set forth, and now so wantonly promulgated before the Legislative assembly of the nation, it has been impossible entirely to separate the language of self-vindication from that of reproach. With Mr. Russell I can also rejoice that the proposal offered on the 1st of December, 1814, was rejected by the British Government; not because I believe it now more than I did then, liable to

any of the dangers and mischiefs so glaring in the vaticinations of Mr. Russell, but because both the interests to which it relates have since been adjusted in a manner still more satisfactory to the United States. I rejoice, too, that this adjustment has taken place before the publication of Mr. Russell's letter could have any possible influence in defeating or retarding it. The convention of 20th of October, 1818, is the refutation of all the doctrines of Mr. Russell's letter, to which there can be no reply. It has adjusted the fishing interest upon the principle asserted by the American Mission at Ghent, but disclaimed by Mr. Russell. It has given us the boundary of latitude forty-nine, from the Lake of the Woods westward; and it has proved the total indifference of the British Government to the right of navigating the Mississippi, by their abandonment of their last claim to it, without asking an equivalent for its renunciation.

With regard to the magnitude of the fishing interest which was at stake during the negotiation at Ghent, I believe the views disclosed in Mr. Russell's letter as incorrect as the principles upon which he would have surrendered it. The notification of exclusion was from all fisheries within exclusive British jurisdiction. I have shown that, historically, Great Britain had asserted and maintained exclusive proprietary jurisdiction over the whole. Had we tamely acquiesced in her principle of forfeiture without renunciation, we should have found that her principle of exclusion embraced the whole. That a citizen of Massachusetts, acquainted with its colonial history, with the share that his countrymen had had in the conquest of a great part of these fisheries, with the deep and anxious interest in them taken by France, by Spain, by Great Britain, for centuries before the American Revolution; acquainted with the negotiations of which they had been the knot, and the wars of which they had been the prize, between the three most powerful maritime nations of modern Europe; acquainted with the profound sensibility of the whole American Union, during the Revolutionary war, to this interest, and with the inflexible energies by which it had been secured at its close; acquainted with the indissoluble links of attachment between it and the navigation, the navy, the maritime defence, the national spirit, and hardy enterprise of this great Republic: that such a citizen, stimulated to the discharge of duty by a fresh instruction from his Government, given at the most trying period of the war, upon the very first rumor of an intention, on the part of Great Britain, to demand its surrender, not to surrender it—sooner to break off the negotiation than surrender it; that such a citizen, with the dying words of Lawrence, "Don't give up the ship," still vibrating on his ear, should describe this interest "as totally unnecessary for us for subsistence or occupation," and affording, "in no honest way, either commercial facility or political advantage," as "the doubtful accommodation of a few fishermen, annually decreasing in number," is as strange and unaccountable to me as that he should deliberately sit down, two months after the treaty was concluded, and write to his Government a

State of the Sinking Fund.

cold-blooded dissertation to prove that there was nothing—absolutely nothing—in the principle upon which he and his colleagues had rested its future defence; and that he considered the fishing liberty “to be entirely at an end, without a new stipulation for its revival.”

Such were not the sentiments of a majority of the American Commissioners at Ghent; such were, particularly, not the sentiments of the writer of these remarks. He reflects, with extreme satisfaction, upon that deep and earnest regard for this interest manifested, at that time, by the Executive Government of the United States, in the positive and unqualified instruction of the 25th of June, 1814, to the Commissioners, on no consideration whatever to surrender the fisheries. He rejoices that this instruction was implicitly obeyed; that the nation issued from the war with all its rights and liberties unimpaired, preserved as well from the artifices of diplomacy as from the force of preponderating power upon their element, the seas; and he trusts that the history of this transaction, in all its details, from the instruction not to surrender the fisheries to the conclusion of the convention of the 20th of October, 1818, will give solemn warning to the statesmen of this Union, in their conflicts with foreign Powers, through all future time, never to consider any of the liberties of this nation as abrogated by a war, or capable of being extinguished by any other agency than our own express renunciation.

JOHN Q. ADAMS.

MAY 3, 1822.

SINKING FUND.

[Communicated to the Senate, February 7, 1822.]

The Commissioners of the Sinking Fund respectfully report to Congress:

That the measures which have been authorized by the board, subsequent to the last report of the 6th February, 1821, as far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this board, dated the 6th day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

JOHN GAILLARD,
President of the Senate, pro tem.

J. MARSHALL,
Chief Justice of the United States.

JOHN Q. ADAMS,
Secretary of State.

WM. H. CRAWFORD,
Secretary of the Treasury.

WASHINGTON, Feb. 7, 1822.

TREASURY DEPARTMENT, Feb. 6, 1822.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund:

That the sum disbursed from the Treasury during the year 1820, on account of the principal and interest of the public debt, as per the last annual report, was - - - - - \$8,705,930 53
From which deduct the amount of repayments in that year - - - - - 77,416 25

8,628,514 28

Which, with a sum being gain on remittances to Europe in 1820, as appears by statement D, annexed to the last annual report - - - - - 1,766 67

Amounting, together, to - - - \$8,630,280 95

Have been accounted for in the following manner, viz:

The application, during the year 1820, towards the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this Department, amounted, as appears by the annexed statement A, to the sum of \$8,598,484 22

In the reimbursement of the principal of the deferred stock - - - - - \$503,125 56

In the purchase of the domestic debt - - - - - 40 34

In the redemption of the Louisiana stock - - - - - 1,785,662 04

In the payment of the principal of Treasury notes - - - - - 32,966 68

In the payment of certain parts of the domestic debt - - - - - 124 08

In the redemption of Mississippi stock - - - - - 1,150,468 32

3,472,387 02

On account of the interest and charges - - - - - 5,126,097 20

8,598,484 22

There was applied for the payment of a sum short provided on account of the public debt, due prior to the 1st of January, 1820, as per statement B, annexed to the last report - - - 29,915 84

The balance remaining unexpended at the close of the year 1820, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the annexed statement B, to - - - 1,880 89

\$8,630,280 95

That, during the year 1821, the following disbursements were made by the Treasury, out of the appropriation of \$10,000,000, on account of the principal and interest of the public debt:

On account of the interest of the domestic debt and reimbursement of the deferred stock \$5,623,321 38

On account of the redemption of the Louisiana stock - - - - - 2,071,360 00

On account of the redemption of the Mississippi stock - - - - - 634,022 53

On account of the redemption of Treasury notes - - - - - 1,774 38

On account of the interest of Louisiana stock - - - - - 36,560 88

On account of certain parts of the domestic debt - - - - - 54 45

Trade with the British West Indies.

Making, together, as will appear by the annexed statement C, the sum of - \$8,367,093 62

and will be accounted for in the next annual report, in conformity to the accounts which shall then have been rendered to the Department.

In the mean time, the manner in which the said sum has been applied is estimated as follows :

There is estimated to have been applied in the reimbursement of the deferred stock -	\$534,033 08
In the payment of the principal of Treasury notes -	1,700 00
In the redemption of Louisiana stock -	2,071,360 00
In the payment of Mississippi stock -	634,022 53
In payment of certain parts of the domestic debt -	54 45
	<hr/> 3,241,170 06

And in the payment of interest on the funded debt, the Treasury notes and Louisiana stock -

5,087,272 01

8,328,442 07

And there is estimated as applicable to the payments falling due after the year 1820, as per estimate F, the sum of -

38,651 55

\$8,367,093 61

A statement (marked G) is annexed, which exhibits the balance of the appropriation of \$10,000,000 unexpended on the 1st of January, 1822, and a statement (marked H) of the funded debt on the 1st January, 1822.

All which is respectfully submitted.

WM. H. CRAWFORD.

[The tabular statements are omitted.]

TRADE WITH THE BRITISH WEST INDIES.

[Communicated to the House, February 15, 1822.]

Public Meeting.

Boston, January 28, 1822.

A meeting was this day holden at Merchants' Hall, agreeably to notice in the public newspapers, to take into consideration the propriety of remonstrating against the repeal of the navigation acts of the United States.

The honorable William Gray was called to the chair ; and Samuel Parkman, jr., was chosen secretary.

The following resolutions was unanimously adopted :

Resolved, That the political power and influence which these United States have with other nations is derived from, and chiefly dependent upon, their naval power.

Resolved, That the political power and influence of a nation is essentially connected with, and operative upon, the interest of every class of citizens, inasmuch as it, affects the terms and conditions which they are enabled to obtain from for-

eign Powers in their commercial and political arrangements.

Resolved, That the power of a nation to establish and maintain a navy is just in proportion to the extent of her commercial marine and fisheries.

Resolved, That the navigation acts of the United States have, in their operation, been highly beneficial to the agricultural, manufacturing, and navigating interests of the country ; to the agricultural and manufacturing, by creating and maintaining a constant and regular demand for their productions at fair prices ; to the navigating, by protecting them against the operation of discriminating duties and commercial regulations of foreign Powers, calculated to build up and extend the commerce and navigation of other nations to the prejudice of that of the United States.

Resolved, That to repeal the navigation acts, except so far as to make them reciprocal with such nations as may repeal theirs with regard to the United States, would be destructive of the carrying trade, and highly prejudicial to the best interests of the whole community ; that it would be surrendering the regulation of our commerce and navigation, one of the principal objects of the formation of this Union, into the hands of foreign Governments, whose interest it is to destroy the latter and regulate the former to suit their own interests ; to secure to themselves the whole carrying trade ; consequently, to augment their naval and political power, and thus to enable them to control our exports, to influence our negotiations with other nations, and, finally, to render the United States of no more consequence to any European Power than China and Japan.

Resolved, That the effect of the repeal of the navigation acts would not be to increase the trade or commerce of the United States, but only to substitute a trade with those places where we are not admitted on terms of reciprocity for a trade to the same extent with those places where we now carry on a fair and reciprocal commerce, and to transfer so much of the carrying trade as should be affected by it from vessels of the United States, and from vessels of those Powers which have made reciprocal commercial arrangements with the United States, to the vessels of those Powers which refuse to make such equal arrangements, and to do this without any motive or equivalent.

Resolved, That such a repeal would be derogatory to the national character, and unjust to those nations which have entered into fair and equitable arrangements, inasmuch as it would subject the Government of the United States to the imputation of partiality or weakness, in granting terms to nations which are selfish and illiberal in their policy towards us, which we refuse to other nations that are magnanimous and just.

Resolved, That restrictions on commerce, high duties, taxing one interest for the benefit of another interest, and partial and illiberal discriminations between the vessels of one nation and those of another ought not to be resorted to, except so far as may be necessary for the purposes of revenue, or, in self-defence, to protect our own citizens

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from the effects of illiberal regulations or unjust impositions by foreign Powers.

Resolved, That we approve the measures taken by the General Government in regard to the regulation of our commercial intercourse with foreign nations as just and liberal to other Governments and honorable to our own.

A committee, consisting of the following gentlemen, viz: the honorable William Gray, Nathaniel Goddard, Willard Phillips, William Sturgis, and Thomas Wigglesworth, Esqs., was appointed to draught a memorial to Congress, in conformity, to the foregoing resolves, offer it to the citizens for their signatures, and to forward the same to our member of Congress, to be laid before that body.

The committee was also requested to correspond with gentlemen in other parts of the Union, and request their co-operation.

It was then voted that the secretary of this meeting cause these doings, with the resolves, to be published in the newspapers.

WILLIAM GRAY, *Chairman.*

SAMUEL PARKMAN, JR., *Secretary.*

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of the undersigned, merchants, ship-owners, and others, inhabitants of Boston, respecting the law relating to trade with foreign colonies, respectfully represents: That the reciprocal terms of commercial intercourse proposed to foreign nations by this country appear to the undersigned to present the fair and just principles of mutual trade; and, after those principles have been assented to by so many nations, and their beneficial influence has been so clearly demonstrated by the security and stability thereby given to our commercial relations, without impairing our navigation and commerce, the undersigned would regret any desire on the part of any portion of their fellow-citizens to disturb the operation of those principles, and induce the nation to abandon them. They would be the more concerned at the appearance of this disposition, because they believe that when a nation consents to continue its intercourse with another upon disadvantageous terms, it begins to submit the industry and enterprise of its people to the control of such other nation, and render them subservient to its policy. One concession invites the demand of another, and one branch of industry is surrendered after another, as long as any remains to be surrendered.

The navigation of this country lies under a disadvantage in comparison with that of foreigners, owing to the higher price of labor, and of most, if not all, of the materials used in building and equipping vessels, with the single exception of lumber. If, besides struggling with this disadvantage, our industry and skill are left exposed to the restrictive regulations of foreign Governments designed to favor their own navigation, it will be impossible for our citizens to maintain a compe-

tition upon equal terms, and an entire freedom from all restrictions, which affords an argument of equal force both against attempting to impose any, and against submitting to them; and the abstaining from such attempt in regard to foreign navigation, and the prompt counteraction of it when made against our own, seem to be parts of the same policy. The truth of these observations appears to be clearly and forcibly illustrated as well by the good effects on all parties of an impartial system of commercial regulations, as far as it has been adopted, as by the success of the recent measures of our own Government for counteracting foreign restrictions. Without such measures, an important branch of our carrying trade was passing entirely into foreign vessels, by the effect of the preference given them in the ports of the country to which they belonged; and by the operation of such measures, our trade, without being diminished, has been brought into channels where our own shipping has a fair competition.

Where no commercial treaty exists to determine the measures to be adopted by a foreign nation on this subject, it may be fairly presumed that the acts of such a nation will be determined by its interest; and since our exports to Europe consist mainly of articles intended for manufacture, and our imports thence of articles manufactured, it is plain that our trade with any European nation has a double effect in promoting the arts and industry, and increasing the population of such country, by giving a cheap and plentiful supply of materials to be used in their arts, as well as by taking off their hands, at the same time, great quantities of the products of those arts. It may, therefore, be fairly presumed that this obvious interest will, in general, be a sufficient inducement for any European nation to carry on a trade with this country, without any exclusive privilege to its own navigation; and, if it be not so, it is not possible to know, without first ascertaining the fact by treaty, what exclusive advantages would be deemed sufficient. If more than the advantages naturally resulting from the trade is demanded, it would seem that such a demand must be made, not because these advantages are an inadequate inducement, but because it is calculated that the United States will concede something more, and will not be as ready to make a small sacrifice, if it be requisite, as such nation is to forego an important interest.

From these considerations, it would be matter of regret to the undersigned if any dissatisfaction were felt in regard to the present state of our laws relating to trade with the British West Indies, which appear to be founded upon the principles above stated, and conformably to those which have been recently proposed and pursued by the Government of this country. It cannot but be recollected that the standing laws of Great Britain, while they admit many articles the growth and production of American colonies belonging to European sovereigns to be imported into the British West Indies in vessels of the subjects of such sovereigns, studiously exclude all articles whatever the growth and production of the United States,

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in American vessels; and though this system has been heretofore so far modified as to admit of an intercourse through some intermediate ports in the British possessions near the United States, whereby Great Britain proposed to open a market in this country for its superfluous West India productions, and at the same time secure to its own shipping the freight of such productions, it is believed that the interruption of this trade by the act of Congress passed the 15th day of May, 1820, has been materially advantageous to the navigation, without being in any considerable degree, if at all, prejudicial to the trade of this country. If there were objections to this trade, it is apprehended that there are still stronger, and, indeed, the most conclusive reasons against the admission of British West India productions exclusively in British vessels into our ports. In the first place, the principal article of trade permitted by Great Britain from its West India possessions to this country is not of a kind to invite or justify any special encouragement. But, supposing it to be a trade deserving encouragement as far as the kind of merchandise is concerned, and supposing, also, that the permission of this trade, carried on in British bottoms, would not diminish our trade to the other islands of the West Indies, still it would be likely more or less to affect our carrying trade to Europe. In the present universal and active circulation of property throughout the commercial world, one branch of trade is much implicated with others, and the exclusive possession of one branch, as by the British shipping in this case, has more or less tendency to draw all those connected with it into the same hands. This trade, in which our own vessels could take no part, would necessarily bring many British vessels into our ports, bound to and from Europe, and a portion of the freights between Europe and this country would naturally be transferred to those vessels.

Such would be the disadvantage to our navigation on the supposition that our trade to other ports of the West Indies would not be diminished. But there can be no doubt that it would be materially diminished. We now have a trade in our own vessels to a large proportion of the West Indies, composing from two-thirds to three-quarters, whether in the ratio of population or of the amount of production and consumption; and from the ports thus open to us we can procure sufficient quantities of all kinds of West India productions to supply our demand for domestic consumption and for re-exportation. It cannot be supposed that opening a trade with the British West Indies by British vessels would increase this demand, but it would supply it just in proportion to the extent of such trade, and, consequently, would take away just so much of the carrying trade from our own shipping; and every cargo brought from the West Indies to this country in a British vessel would deprive one of our own vessels of a freight, or at least of a fair competition in obtaining it from the other West India islands.

The advantages proposed by the admission of British vessels into our ports from the West Indies are the opening a market for our lumber and pro-

visions, and it may perhaps be proposed to raise some little additional revenue by an extra tonnage duty or otherwise. The revenue accruing from this source, if any can be realized, must be too trifling to be a matter of any material consideration, and, were it practicable to make it of any considerable amount, it would be raising a revenue at the expense of our carrying trade, and, consequently, of our navigation, which would be a departure from what is understood to have been the uniform policy and unquestionable interest of this country. The same argument might be alleged for transferring all our carrying trade to foreign bottoms if this could be done. It has never been any part of our system of policy to raise a revenue by the discouragement or limitation of any branch of the national industry, and more especially one so intimately connected with the safety, not to mention the glory of the nation.

In regard to lumber, it is well known to be the policy of Great Britain to supply itself as well as its West India possessions with this article from its colonies on this continent; and we have no proofs of a disposition to relax this policy in favor of the United States, but many to the contrary. Whatever may the effect of its present regulations of this trade, we have no security, without a commercial treaty, that they will be continued, and we might be deprived of the whole of the trade the moment we had conceded what should be considered an equivalent for it. The whole of this trade, in such articles as are at all permitted, might probably amount to something over half a million of dollars—an amount of trade not sufficient to compensate for the abandonment of principles of commercial policy in which the national prosperity is deeply concerned. But when it is considered that we might at the best obtain only a share of this trade, and that it more probably would be wholly interdicted, any calculation upon this advantage seems to be a basis too frail for the support of any important measure.

The same remarks apply in some degree to the trade in provisions. But our exports of provisions would not be increased by the whole amount carried directly from the United States to the British West Indies in British vessels in the case of this exclusive trade being permitted, since the whole demand in the British West Indies would not be thereby increased; and as there is now a trade carried on in articles of this description in our own vessels to other parts of the West Indies, and a trade in similar articles between those places and the British islands, there can be no doubt that the demand in the ports to which we trade is affected by the supplies that go from those ports to the British possessions. This cause will operate to enhance the demand for these articles in those ports, notwithstanding any laws that should be enacted prohibiting the importation from such ports into the British colonies of any products of the United States, however rigorously such laws might be enforced.

For these reasons, it is respectfully represented that it is not expedient to make any change in the existing laws of this country in relation to the trade

Commercial Intercourse with Foreign Nations.

with the British West Indies, unless the terms on which the trade is to be pursued can be first ascertained by stipulations on the subject.

Boston, February 4, 1822.

TRADE WITH THE BRITISH WEST INDIES.

[Communicated to the Senate, March 15, 1822.]

To the Senate and House of Representatives of the United States:

The memorial of the subscribers, ship-owners, and others interested in foreign commerce, in the town of Portsmouth, and State of New Hampshire, respectfully represents:

That, in the year 1817, they addressed a memorial to Congress, in which they set forth the various embarrassments and disadvantages to which they were subjected from the unequal operation of the navigation laws of foreign nations, and praying such relief as the wisdom of Congress might devise.

That, in common with their fellow-citizens of other commercial towns, they witnessed with much satisfaction the measures adopted by the General Government, particularly in the acts of Congress of April, 1818, and May, 1820, to retain the carrying trade, as far as possible, for our own vessels, and to prevent the ruinous competition of foreign vessels with our own in our own ports; that, though your memorialists are in general opposed to commercial restrictions, and to discriminating duties between the vessels of one nation and those of another, they deeply feel the injustice as well as the impolicy of granting to foreign nations privileges which they deny to us, and thus in effect offering a bounty to foreign ships at the expense of those of our own country.

That, persuaded as they are, upon principle, of the propriety of our existing navigation laws, it has given them much pleasure to observe their favorable effect upon the tonnage of the United States. It appears that in 1818 the amount of American tonnage employed in foreign trade was 755,101, and of foreign tonnage in the ports of the United States 161,413 tons. In 1820 the American tonnage was 861,253, and the foreign 79,200 tons: thus making in two years an increase of American tonnage of 106,152, and a decrease of foreign tonnage of 82,213 tons. In other words, two years ago 21.100 of the trade of the United States was carried on in foreign bottoms, while at present only 9.100 is conveyed in foreign ships—a most striking proof of the advantage of these laws.

But there are other considerations connected with this subject to which your memorialists cannot be insensible, and to which they doubt not your attention has already been directed. The repeal of these laws would add directly to the riches and power and strength of a nation that feels no disposition to meet the United States upon terms of mutual concession and freedom. Great Britain framed her acts of navigation a century

and a half ago, for the purpose, as was avowed at the time, of "clipping the wings of her opulent and aspiring neighbors, the Dutch." She has ever since been tenacious of these laws as the great preservative of her commercial marine, and, of course, as the foundation of her naval strength. Our navigation acts were designed to protect our citizens against the operation of this foreign system; and to repeal them at this time, without some reciprocal relaxation on the part of Great Britain, would be, as your memorialists apprehend, to surrender the character as well as the interests of the nation.

Your memorialists, therefore, respectfully pray that the present system of navigation laws in the United States may not be abandoned, whatever modifications may be made in their provisions; and, as a brief expression of their opinions and feelings on this subject, they would present the following resolutions which were passed at a numerous meeting of the merchants and ship-owners, and others interested in foreign commerce, holden at Portsmouth on the 18th of February instant.

Resolved, That we have witnessed with entire approbation the measures pursued by the Government of the United States, especially in the years 1818 and 1820, for the regulation of our commerce with foreign nations.

Resolved, That, in our opinion, the navigation acts of the United States have been highly favorable to our merchants, ship-owners, and mariners, by increasing the amount of American tonnage, and favoring the employment of American seamen.

Resolved, That the repeal of the navigation acts at the present time would be highly injurious to the commerce of the United States, as it would place the vessels of foreign nations in a more favorable situation for commercial enterprises than those of our own country, and would thus transfer the whole carrying trade to foreign nations without any reciprocal concessions on their part.

Resolved, That a memorial to Congress be prepared expressing these opinions, and praying that the present system of navigation laws be maintained, unless foreign nations will consent to a mutual relaxation of such prohibitory laws, upon terms of mutual concession.

Resolved, That a copy of these resolutions be forwarded to the Senators and Representatives in Congress from this State, with our request that they use their exertions to carry the same into effect.

JOHN GODDARD, *Chairman.*

SAMUEL LORD, *Secretary.*

PORTSMOUTH, N. H., Feb'y, 1822.

COMMERCIAL INTERCOURSE WITH FOREIGN NATIONS.

[Communicated to the House, March 15, 1822.]

Mr. NEWTON made the following report:

The Committee on Commerce, to whom were submitted so much of the President's Message as

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concerns the commercial intercourse of the United States with foreign nations, and all other matters relating to the commerce of the United States; the memorials and petitions of the citizens and merchants of sundry cities, towns, and counties, praying for a repeal of the navigation acts of the 18th of April, 1818, and of the 15th of May, 1820; and the memorials and petitions of the citizens and merchants of sundry cities and towns, remonstrating against the repeal of the said acts, beg leave respectfully to report:

The committee are duly impressed with a sense of the importance of the duties which have been assigned to them. Their weight would at any time be felt, but the circumstances which have made it necessary for them to act have increased it, by awakening a solicitude they know not how to express.

They regret the necessity for the following reasons:

First. Because the opposition to the policy pursued by the Government, though it originates, they are persuaded, in the purest motives, will have the inauspicious effect of preventing for a time the success of that policy. And

Secondly. Because the subjects inseparably connected with it are of such magnitude, that the committee, whose duties have been various and arduous, have not had sufficient time to bestow on them that deliberate consideration they deserve. These subjects, from their extent, and always difficult, have at this conjuncture become peculiarly embarrassing and delicate from the condition in which most of the nations of Europe are placed. A new political era has commenced; new relations among nations forming; new channels for commerce opening; and the old commercial system giving way for the introduction of one more liberal and enlightened. These changes, evident to all, should have produced a pause; there never was a time that required more serious required more serious reflection, never one more prudence or circumspection. In political affairs, it is no easy matter to recover from a false step. By standing still, our chance for acquiring advantages is much greater than by acting. In the first place, we rely, as we should, on principles that are in successful operation, and on which we should depend for freedom of commerce. In the second, by changing our policy, and rejecting the best means which can secure to it that freedom, we sanction the restrictive principles that have depressed it. This Government has ever been disposed to act with fairness and justice to all nations. It has never asked for a favor from any which it has been unwilling to reciprocate. From the time the Constitution went into operation to the present, this Government has uniformly manifested a disposition to open a free commercial intercourse with every nation. If its just views have not been met in a like liberal spirit, the Government cannot be otherwise than conscious that it has discharged, to the utmost of its ability, the duties assigned it; and it cannot but derive great consolation from the reflection that the American people, when they shall understand the motives which

have influenced its deliberations and directed its councils, will justly appreciate the policy which it has been compelled, from principles of self-preservation, reluctantly to adopt.

The committee now proceed to give a concise view of the commerce of the United States. This they will endeavor to make as plain, but as comprehensive, as the time allowed them will permit. In order to accomplish this object, they have divided the time between the peace of 1783, and the 30th of September, 1821, into four periods. The first period to begin at the peace of 1783, and to end which the Constitution went into operation, in the year 1789. A transient view of the commerce of the United States during that time will show the causes why it did not flourish; and that, among the reasons urged for changing the old confederative form of government for the present Constitution, the prevailing one was, that the affairs of commerce should be under the sole regulation of Congress, and that the National Government should be vested with competent powers to countervail the restrictive commercial policy of foreign nations. The second period to commence from the time when the Constitution went into operation, and to end when war was declared against the United Kingdom of Great Britain and Ireland, and the dependencies thereof. The third, from the declaration of war, in 1812, to the general pacification of Europe and the Treaty of Ghent.* And the fourth and last, from the general peace in Europe and the Treaty of Ghent, to the 30th of September, 1821.

The first period of time presents a state of affairs that must have given to every American, the first wish of whose heart was the honor and prosperity of his country, the deepest concern.

Our independence as a nation was acknowledged, but we were disappointed as to the immediate advantages we expected to derive from that glorious event. Every nation considered the infant republic as a rival, and circumscribed within the narrowest limits its rights and privileges.† As it is the duty of your committee to confine their views to the commerce of the United States during that period, they will succinctly sketch not its rise and progress, but humbly record the causes of its declension and decay. At no period of our history has commerce ever been in so languishing a condition. It was under the worst management, having thirteen independent sovereignties for guardians, each claiming and exercising independent powers over its concerns. The Confederation could make, but, not having the power to enforce treaties, its overtures to make them were by Great Britain, France, Spain, and Portugal rejected. Other pretexts were not wanting. They knew that an inefficient Government gave great advantages to them, and they were determined to convert them to their use. The navigation acts of Great Britain were rigorously executed; and other nations, averse to permit the United States to participate in a commerce which it was their desire exclusively to enjoy, restricted their commercial

* 31st December, 1814. † Pitkin's View, p. 1.

intercourse with them in such a manner as to leave no chance of successful competition. The Confederation having no navy to protect commerce, and not being able, from the want of funds, to purchase, by tribute, its safety from the piratical Powers of Barbary, no commercial intercourse could be had with the nations bordering on the shores of the Mediterranean. The depredations of those freebooters were connived at by nations able to protect their commerce, as the best means that State policy could suggest to obtain the monopoly of that of nations unable to protect theirs. Jealous and conflicting regulations of the States, obstructing commercial enterprise in every branch, and the want of exclusive and efficient powers in the federal head to assert and vindicate its rights, left it to the mercy of foreign nations, whose restrictions were dictated in a spirit either of cupidity or hostility. The merchants of every part of the Union, alive to the injuries they were suffering, expressed with freedom and patriotic indignation their complaints. Congress and the State Legislatures heard with patience and pain their grievances. The merchants asked for protection, but could obtain sympathy only. As the representations of those who suffer real injuries are always impressive, your committee cannot refrain from giving, in their own style and manner, their complaints.

"General discontent prevailed with respect to the course of trade. It had commenced with the native merchants of the North, who found themselves incapable of contending in their own ports with certain foreigners, and was soon communicated to others. The gazettes of Boston contained some very animated and angry addresses, and produced resolutions for the government of the citizens of that town;* applications to their State Legislatures; a petition to Congress; and a circular letter to the merchants of several seaports throughout the United States. After detailing the disadvantages under which the navigation and trade of America labored in consequence of the free admission of the ships and commodities of Great Britain into their ports, while their navigation, in return, was discouraged, and their exports either prohibited from entering British ports, or loaded with rigorous restrictions; after stating the ruin which must result from the continuance of such a system, and their confidence that the necessary powers to the Federal Government would be soon, if not already, delegated, the petition to Congress thus concludes:

"Impressed with these ideas, your petitioners beg leave to request of the very august body which they have now the honor to address that the numerous impositions of the British on the trade and exports of these States may be forthwith contravened by similar expedients on our part; else the commerce of this country, and, of consequence, its wealth, and perhaps the Union itself, may become victims to the artifice of a nation whose arms have been in vain exerted to accomplish the ruin of America."

* Marshall's Life of Washington, vol. 5, p. 76.

The merchants of Philadelphia presented a memorial to the Legislature of that State, in which, after lamenting it as a general defect in the Constitution that full and entire power over the commerce of the United States had not been originally vested in Congress, as no concern common to many could be conducted to a good end but by unity of councils, they say: "Hence it is that the intercourses of the States are liable to be perplexed and injured by various and discordant regulations, instead of that harmony of measures on which the particular as well as general interests depend, productive of mutual disgusts and alienation among the several members of the empire." "But the more certain inconveniences foreseen, and now experimentally felt, flow from the unequal footings this circumstance puts us on with other nations, and by which we stand in a very singular and disadvantageous situation; for, while the whole of our trade is laid open to these nations, they are at liberty to limit us to such branches of theirs as interest or policy may dictate, unrestrained by any apprehension, as long as the power remains severally with the States, of being met and opposed by any consistent and effectual restrictions on our part."

This view, with the statement of facts, is respectfully submitted without a comment, as none that your committee can make can exhibit, during this period of time, more strongly the humiliating condition of the commerce of the United States.

During this period, our imports greatly exceeded our exports. (For the amount of tonnage, see document A No. 1.)

The second period of our time commences with the operation of the Constitution of the United States, the adoption of which was regarded as an event of the greatest importance, involving in itself nothing less than the continuance of the Union and the prosperity of the nation. The Constitution confers on Congress the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes. "No tax or duty shall be laid on articles exported from any State; no preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another." "No State shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of Congress." From these clauses of the Constitution, it evidently appears that the people of the United States deliberately and solemnly granted to Congress, exclusively, the power to regulate commerce; and this was done because they had seen the fatal consequences that attended the exercise of it, severally, by thirteen independent sovereignties, and because they were practically convinced "that no concern common to many could be conducted to a good

end but by a unity of councils." They were satisfied that measures which should be taken with respect to the foreign relations and commercial concerns of the United States would require a policy steady and circumspect, and time and secrecy to mature it. They confided this power to the National Government, making the Representatives whom they should elect to administer it solely responsible for the proper execution of the power thus intrusted.

These clauses from the Constitution show, beyond all doubt, that the people, after taking away from the States all power concerning the foreign relations and the commercial concerns of the United States, and by so doing, of course, all the means of acquiring accurate information touching matters delicate and important in their nature, intended that their Representatives should be left to pursue, by unity of councils, the completion of that course of measures which their convictions, wrought by a full view of the subject in all its bearings, should dictate as necessary to promote the general interest and welfare. Were any of the constituted authorities of the States to interpose in such matters, such interposition would again introduce the same evils, the recurrence of which it was the intention and design of the people to prevent by adopting the Constitution. The people created, and they can destroy whenever they will it, the Constitution; but they will never knowingly destroy a form of Government which has made the United States a nation among nations; and they are too just to make their Representatives, possessing as they do plenary powers over foreign relations and commerce, responsible for failures either in policy or negotiations from measures not originating with them.

Great expectations were indulged that the navigation and trade of the United States, feeling the invigorating impulses of a National Government, would revive, and possess almost the attribute of ubiquity.

How flattering soever they have been, yet, to the eyes of men whose zeal and judgment were temperate and cool, the prospects appeared in many respects deeply shaded. Coeval with the operation of the Constitution was the commencement of the French Revolution. The same principles and feelings gave birth to both; but, taking a different direction in their developement and display, the destiny allotted to each marks, under the dispensation of a wise Providence, the great influence of times and circumstances in the fate of nations. As it is made the duty of your committee to notice and record the progress of the commerce of the United States, they beg leave to quote the following passage from Seybert's Statistical Annals, which presents, in a concise view, some of the principal causes that have contributed to give to commerce, during this period, momentum and enterprise.

"Independent of our newly acquired political character, circumstances arose in Europe by which a new and extensive field was presented for our commercial enterprise. The most memorable of revolutions was commenced in France in 1789;

the wars consequent to that event created a demand for our exports, and invited our shipping for the carrying trade of a very considerable portion of Europe; we not only carried the colonial productions to the several parent States, but we also became the purchasers of them in the French, Spanish, and Dutch colonies. A new era was established in our commercial history; the individuals who partook of these advantages were numerous; our catalogue of merchants was swelled much beyond what it was entitled to be from the state of our population. Many persons who had secured moderate capitals soon became the most adventurous. The predominant spirit of that time has had a powerful effect in determining the character of the rising generation in the United States. The brilliant prospects held out by commerce, caused our citizens to neglect the mechanical and manufacturing branches of industry; fallacious views, founded on temporary circumstances, carried us from these pursuits, which must ultimately constitute the resources, wealth, and power of this nation. Temporary benefits were mistaken for permanent advantages; so certain were the profits on the foreign voyages, that commerce was only pursued as an art; all the knowledge which former experience had considered as essentially necessary was now unattended to; the philosophy of commerce (if I am allowed the expression) was totally neglected; the nature of foreign productions was but little investigated by the shippers of the United States; the demand in Europe for foreign merchandise, especially for that of the West Indies and South America, secured to all these cargoes a ready sale with a great profit; the most adventurous became the most wealthy, and that without the knowledge of any of the principles which govern commerce under ordinary circumstances; no one was limited to any one branch of trade; the same individual was concerned in voyages to Asia, South America, the West Indies, and Europe. Our tonnage increased in a ratio with the extended catalogue of the exports; we seemed to have arrived at the maximum of human prosperity; in proportion to our population, we ranked as the most commercial nation; in point of value, our trade was only second to that of Great Britain.

"The merchants who had been long engaged in trade were confounded by the changes which were so suddenly effected; the less experienced considered the newly acquired advantages as matters of right, and that they would remain to us; they did not contemplate a period of general peace, when each nation will carry its own productions, when discriminations will be made in favor of domestic tonnage, when foreign commerce will be limited to enumerated articles, and when much circumspection will be necessary in all our commercial transactions."

This passage forcibly illustrates the nature of the commerce of the United States during that period. It had acquired an impetus which was accidental, and the advantages arising from which could but be transient. The condition of commerce at that time gave a wildness to speculation and enterprise, which a change of circumstances seems not capa-

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ble of bringing back to the rationale of a peace commerce. The erratic course it then pursued prepared for the time of peace a bitter portion for many who, destitute of experience, and regardless of the dictates of prudence, had boldly ventured on a sea they had not skill to navigate. The failures which took place at the peace, and soon after it, may be traced to commercial enterprises made on deceptive calculations. The facts on which the estimates made of a peace commerce are unfortunately drawn from that period, than which there cannot be a greater or more dangerous fallacy; and which will, if persevered in, continue to warp the judgment, inflame the public mind, and fatally depress that commerce which it is the common wish and interest of every lover of his country to promote and extend.

Your committee forbear to enlarge here on this point, as in another part of this report it will more properly come under their consideration.

They will now state such acts as were passed after the organization of the present Government for the encouragement of navigation and commerce.* Attention was given with as little delay as possible to these subjects. On the 20th July, 1789, an act passed imposing duties on tonnage; this laid a duty of six cents per ton on all vessels owned by citizens of the United States on the 29th of May, 1789, whether such be domestic or foreign built.† On ships or vessels built in the United States after the 20th July, 1790, but belonging wholly, or in part, to subjects of foreign Powers, at the rate of thirty cents per ton; and on all other ships or vessels at the rate of fifty cents per ton.

“The extra duties imposed by the act of the 29th of May on the tonnage of foreign nations, and which were continued by the act of 20th July, 1790, and the extra duty of ten per centum additional on all the rates of duty imposed on merchandise imported in American vessels by the act of 10th August, 1790, when such merchandise is imported in vessels not of the United States, constitute what are usually called the *discriminating duties*.”‡

The discriminating duties had a good effect on the navigation of the United States. They enabled it to come into competition with the foreign with the greater prospects of success. The tonnage certainly increased.

“These extra charges on the navigation and commerce of foreign nations were sufficient to drive from our ports the greatest proportion of the foreign tonnage. All foreign nations were affected by the system we had adopted in favor of the ship-owners in the United States. The diminution of the foreign tonnage employed in our trade was, with very few exceptions, rapid, regular, and permanent.”§

No doubt is entertained that the acts mentioned had a beneficial effect, but the state of Europe contributed not a little, as has been observed, to

encourage and extend navigation and commerce. The laws allowing the drawback of duties on merchandise exported within twelve months from the time of importation have given to American commercial enterprise an extensive field for exertion, and enabled our merchants to profit by markets which, without such privileges, they could not have resorted to.

Other laws were passed during this period increasing the duties on tonnage and merchandise, which, for the time they were in force, might have had some good effect; but as they were temporary, and passed with no view of forming a system for promoting navigation, your committee forbear to give them any particular notice. In another part of this report the commercial relations in which the United States stand to other nations, and the changes which those relations have produced, will receive the attention to which they are justly entitled.

Your committee, in order to make a fair representation of the condition of commerce during this period, feel themselves constrained to state some of the losses to which it was subjected by the captures made of American vessels, with their cargoes.

The facts here given preclude the necessity of many comments. Political weakness gives encouragement to rapacity and avarice; and the same scenes will be renewed if the same cause should exist. What privileges should be gratuitously conferred on the actors of such atrocities? What sacrifices should be made to enable them to act over again their parts? Should future wars convulse nations, the patriotism of an enlightened Legislature is called upon to decide. It is fortunate for the destinies of this nation that the influence of experience is never lost on those who are to direct them.

It was stated in the House of Peers that six hundred American vessels were seized or detained in British ports between the 6th of November, 1793, and the 28th of March, 1794.—*Macpherson's Annals of Commerce*, vol. iv., p. 285.

	Vessels.
Captures by the British, from 1803 to 1812	917
Captures by the French, for the same period of time	558
Captures by the Neapolitans	47
Cases of captures pending in the Danish tribunals	70
Grand total	1,592

The above account, Dr. Seybert says, presents a fair view of the distressed condition of our foreign commerce at a time when we were said to be at peace with all nations. (p. 81.)

Under the 7th article of the treaty of 1794, between the United States and Great Britain, a board of commissioners was organized and empowered to settle claims for American vessels captured and detained by British ships of war. The amount of the claims allowed cannot now be ascertained, as the records of the commissioners were lost by fire during the late war; the sum

* Laws of the United States, vol. 2, pages 6, 120.

† Laws of the United States, vol. 6, page 101, sec. 5.

‡ Seybert's Annals, pages 293, 294.

§ Pitkin's View, page 135.

paid, it is supposed, fell far short of the losses sustained. No compensation for captures of vessels with their cargoes from 1803 to 1812 was ever made.

By the convention of the 30th of April, 1803, between the United States and the French Republic, our Government obtained for our citizens who suffered by French spoliations on our commerce about \$3,750,000; and by the late treaty with Spain, ceding the Floridas to the United States, the sum of \$5,000,000 was likewise obtained as an indemnification for spoliations committed on our commerce by Spanish cruisers, &c.

These indemnifications can in nowise be considered adequate to the immense losses that our merchants sustained.

The third period comprehends the time from the declaration of war against the United Kingdom of Great Britain and Ireland, and the dependencies thereof, to the general pacification of Europe and the Treaty of Ghent.

The commerce of the United States during this war was greatly depressed, and our exports and imports were, of course, much reduced. The documents annexed will furnish the facts necessary to show the extent and value of our commerce at that time.

Many considerations give a deep interest to this eventful period. The change of relations from peace (if peace it could be called when the United States were suffering passively every injury) to those of war, in which they could retort injury for injury, was awful and momentous.

The issue to them was peace, with dignity and prosperity, or disunion, with the domination of a victorious and vindictive enemy. The causes of the war were many: the principal were the impressment of our seamen, and the wanton destruction of our commerce. As a young nation, Great Britain determined to prevent our growth openly and insidiously. Her ruling statesmen and the advocates for monarchy everywhere hesitated not to express with confidence an opinion that the Constitution of the United States, destitute of energy, could not maintain the national rights, and that, whenever this nation should, under its auspices, assert them, the Constitution would perish in the agitations of war. No wonder can, therefore, be excited that such impressions should influence foreign Governments in the course of policy they observed to this nation. No Government felt that influence in a higher degree than that of Great Britain. The times produced in public affairs a crisis, the determination of which filled with anxious solicitude every American breast. The enemies of the United States congratulated themselves that the time had arrived of effecting their humiliation by the dissolution of the Union. The course the American Government had to take was difficult. On every side was seen but a choice of evils. Every expedient that policy or ingenuity could suggest for the preservation of peace with honor was resorted to. Negotiations were opened, but with diplomatic and sarcastic levity the American Government was told that

justice to the United States was inconsistent "with the maritime rights of Great Britain."

All efforts of a conciliatory nature were considered proofs of imbecility, and the experience of every day convinced the Government that justice would never be voluntarily rendered to this nation until the energies of the Constitution, tried and not found wanting in war, should extort and command it. It was in vain, after such unequivocal manifestations of hostility, to look for the enjoyment of peace with dignity. Wrongs, aggravated by insults, determined the Government of the United States to appeal to the sword, and to depend alone on Providence and the justice of its cause for a successful issue.

The war exhibited scenes of horror from which the eye of Alaric would have turned with pain.

It acquired for our Republican institutions a character of practical efficiency, and elevated the United States to the first rank among nations. The army gallantly performed its duty; but, as the navy has an intimate connexion with the subject under consideration, your committee have particularly noticed this period as the commencement of an era which, fortunate for the future success of commerce, raised and gave reputation to the arm destined to protect its rights; and that arm will be able to protect its rights if the navigation of the United States, the nursery of its strength and efficiency, shall not be sacrificed by a vacillating policy.

The committee now turn their attention to the fourth and last period, which comprehends the time from the general pacification of Europe and the Treaty of Ghent to the 30th of September, 1821. Since the peace, each nation, as far as it has the ability to do it, supplies its wants from its own resources, and encourages its own navigation. The field for commercial enterprise is of the same extent, the harvest is not less abundant, but the competition, among those who are contending for a share of it, much greater. The portion falling to the lot of each will depend on the exertions of patient, never-tiring labor. To the active and persevering, prospects are cheering; but to visionaries, who enjoy wealth in dreams, and wake but to behold the delusion, there can be no hope. Let the Government do what it will, it can never throw on such the sunshine of prosperity.

This is the only period since 1789, with the exception of the peace of Amiens, which lasted but a short time, that the nations of Europe have stood in the relations of peace and amity to each other. The facts on which to found an estimate, or probable conjecture of what will be the nature, extent, and value of the commerce of the United States with foreign nations during the continuance of peace, should from this period be collected. Your committee regret that this comprehends too small a portion of time to furnish those necessary for a fair and just one. They are fully apprized of the necessity of giving as correct information as they can on subjects of the first importance. They have no interest to deceive, nor do they, while performing their duty, look to other objects. They deprecate mischiefs that are pro-

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duced by partial views, because their destructive effects are seldom repaired, even by the wisest patriots. The commerce of the United States consists of many distinct branches; the most valuable the Government should by proper means endeavor to secure from injury, and to make the least valuable productive. Your committee would absolve themselves from the observance of every principle they are bound to regard, were they, in discharging their duties, to devote their attention solely to one branch. As the commercial intercourse of the United States with foreign nations will be greater or less in proportion to the demand for the produce of the United States, your committee feel themselves constrained to glance the eye over some of the countries with which the United States have, and probably will have, under various modifications, commercial intercourse; to notice incidentally some of the changes that have been made, and their effects. The revolution in France agitated the whole civilized world. Europe, in particular, felt its effects. Many important changes have, and, from appearances, it is likely many more will take place. Events are in quick succession; and no man is wise enough to tell when the revolutionary tempest will cease. Be that as it may, a new order of things has been produced by the convulsions of Europe. The civil and political institutions of States and empires in that quarter of the world begin evidently to regard the rights and happiness of the people more than they formerly did. In France, the property of the soil has become more equally distributed, by the sale, during the revolution, of the landed estates of the privileged orders. The feudal impressions have been abolished, and the rights of persons and property are better secured at this than at any former period.

A new spirit of industry and enterprise has arisen, and France begins to feel its genial influence. The revolutions now existing and progressing in Spain and Portugal, having the same objects in view, will, in all human probability, revive the energies of those countries. Few possess better climates and a finer soil, and none greater advantages for extensive commerce.

Great Britain is looking on this eventful period with no little solicitude; restrictions imposed by her monopolizing policy are so effectually retorted, as to inspire more liberal notions.

A disposition is evidently manifested by her to meet other nations on the ground of reciprocity, and trust her success in commerce to free and open competition. To accelerate this happy change, to realize it, the measures which have wrought that disposition should not be rashly and inconsiderately abandoned.

When the voyage is nearly at an end, when the destined port is in view, it would be temerity in the pilot to keep at sea, and expose to the mercy of the winds and waves the lives and fortunes of those intrusted to his skill and care. This concise view is presented to the considerate and dispassionate, for the purpose of showing that the productions of the United States may be in less demand in those countries than they have hereto-

fore been. Better cultivated than formerly, some of those countries will become competitors with us in the markets of nations less fortunate in climate and soil. New sources of supplying grain are opening. Odessa, on the Black Sea, which, in 1792, was a Tartar camp, under another name, now contains a population of 40,000 souls. From that port, in 1815, were shipped to Leghorn, Naples, Genoa, Marseilles, and other ports, 6,000,000 bushels of wheat. In 1817, 3,000,000 bushels were shipped to the single port of Leghorn. Other places contribute, but in less quantities, grain, to meet the demand that may exist.* But, as it is not the intention of the committee to be tedious in the enumeration of places from which grain and other articles can be obtained, they content themselves with stating a few facts. They plainly show that the want of demand in Europe for the produce of the United States, particularly flour and breadstuffs, arises from causes over which the American Government can have no control.

The nations with which the United States have, and those with which they have not, commerce founded on principles of reciprocity, will now be stated; they are as follows:

1st. *Great Britain.*—In the dominions of His Britannic Majesty in Europe, vessels of the United States are placed on the same footing with British vessels. They are subjected to the payment of the same tonnage duties and charges, and their cargoes pay the same duties as when imported in British vessels; and British vessels arriving in the ports of the United States from His Majesty's dominions in Europe pay the same tonnage duties, and the same duties on their cargoes, that our vessels are required to pay, and no more. These privileges are secured by the convention agreed on by both nations in 1815, which convention was renewed by the fourth article of the convention of the 20th of October, 1818. This convention is limited to ten years. The importations into each country are confined to the produce and manufactures of the respective countries.

2d. *Sweden.*—By a treaty agreed on between the United States and the King of Sweden and Norway, a liberal commercial intercourse is established. The treaty is to be in force for the term of eight years from the exchange of ratification, to wit, from the 27th of May, 1818.

By the provisions of this treaty, the produce and manufactures of the United States, when imported into the ports of Sweden and Norway in vessels of the United States, pay the same duties as would be exacted were they imported in Swedish or Norwegian vessels; and the produce and manufactures of Sweden and Norway, when imported into the United States in Swedish or Norwegian vessels, pay the same duties as when imported in vessels of the United States.

In the ports of both nations there is an equality of tonnage duties.

The provisions of this treaty extend to the colony of St. Bartholomew, and to the vessels of the

* See Dearborn on the Commerce of the Black Sea, vol. i, page 233.

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inhabitants thereof, provided the owners are there established and naturalized, and shall have caused their vessels to be naturalized.

The act of Congress which passed the 3d of March, 1815, proposes to each commercial nation fair and liberal terms of commerce; it speaks a plain and intelligible language to each nation. It says: Receive the vessels of the United States into your ports loaded with the produce and manufactures of the United States on the same terms and conditions you receive your own vessels into your ports importing the same articles of merchandise, and your vessels importing into the United States the produce and manufactures of your country shall be received into the ports of the United States on the same terms and conditions that vessels of the United States are received into ports of the United States importing the same articles of merchandise.

The terms offered by this act have been acceded to by the Netherlands, by Prussia, and by the Hanseatic towns of Hamburg and Bremen.

3d. *France*.—The extra duties imposed in 1817 by the French Government on the produce of the United States, when imported into France in vessels of the United States, have excluded them from a competition with French vessels carrying American produce to France. Feeling the injustice of such impositions on the part of France, the merchants memorialized Congress. On consideration of their complaints, an act passed the 15th of May, 1820, subjecting French vessels entering the ports of the United States to a tonnage duty of eighteen dollars a ton after the 1st day of July, 1820. The vessels which arrived in the United States without having notice of the law, were released from paying the duties imposed by that act, by the act which passed the 3d of March, 1821. When the French Government imposed the extra duties above-mentioned, the act of Congress of the 3d of March, 1815, was known to it, offering a fair, just, and equal commerce to all nations; and her Minister near the Government of the United States was, in 1817, witnessing the liberal disposition of Congress to reduce the duties on French wines, and which was carried into effect by the act of the 3d of March, 1819.

At the time when a spirit friendly to the commerce of France was manifested by this Government, that of France was decreeing extra discriminating duties, which were tantamount to an interdiction of the ports of France to vessels of the United States carrying to them the produce of their country.

* "The discriminating duties paid by vessels of the United States importing the following articles in France, are—

1½ cent per pound (French weight) on cotton.	
1½ do. do. do. on tobacco.	
55 do. per 100 pounds do. on potashes.	

"To form an estimate of the practical result of these regulations, it will be assumed that a vessel of 300 registered tons will carry 560,000 pounds weight of tobacco; the difference of duty on which,

at 1½ cent per pound, will be \$6,300, which is equivalent to \$21 per registered ton.

"Or in a vessel of the same description, carrying 280,000 pounds weight of cotton, and 220,000 pounds weight of potashes, the difference of duty, estimated at 1½ cent on the cotton, is \$4,200

"And that on the potashes, at 55 cents per 100 pounds, is - - - - - 1,210

\$5,410

"Which is equivalent to \$18 per registered ton."

From this statement, it appears that the unjust act of the French Government was passively submitted to for nearly four years, before one counter-vailing measure was taken. Previously to acting, proposals were made to adjust all differences amicably; but they were evaded. The facts here given will certainly exonerate the American Government from the charge of acting towards France with precipitancy.

4th. *Spain*.—In the ports of Spain, since the 1st of January, 1821, vessels other than those of Spain, importing certain produce therein, pay one-third more duties than Spanish vessels. Many articles are prohibited, among which are the following: beans, peas, &c., rice, salt beef, and pork, biscuit of all kinds, hams, leather and manufactures of leather, and nails of all kinds.

Foreign vessels are admitted into Spanish ports on the same footing that Spanish vessels are admitted into foreign ports.

5th. With Portugal your committee have no information on which they can rely relating to our commercial intercourse. New regulations have, they believe, been made respecting importations, and some articles of merchandise formerly admitted are now prohibited. The policy of that Government, they persuade themselves, in relation to commerce, will be liberal.

With the Italian States our commercial relations have undergone no change, within the knowledge of the committee.

The statement of exports and their destination, which will form part of this report, will show the value of our exports to those countries, and to the ports on the Adriatic belonging to Austria.

6th. *Russia*.—It appears by the Russian tariff of 1816 that no duty is paid on cotton imported into Russia in American vessels. About one-third of a cent per pound is paid on rice, and about four cents per pound on tobacco; on cotton yarn and twist, and on woollen yarn and wool, from five to seven and a half per centum ad valorem; on white cotton cloths, woollen cloths, and stuff goods, from fifteen to twenty-five per centum ad valorem; on East and West India products, generally, the duty is probably not so high as upon the same articles when imported into the United States.

7th. *Denmark*.—The importation duty is half as much more in ships not privileged as it is in privileged ships. Great Britain, Holland, France, Prussia, Spain, Portugal, Hamburg, and Genoa have treaties with Denmark; their vessels enjoy in the ports of Denmark privileges not granted to ours.

* See memorial of the Chamber of Commerce, N. Y.

With China the American trade is inferior to that of no nation, Great Britain excepted; and her best informed men on that subject think the trade of the United States with China is obtaining the advantage. The permission to British merchants to trade with China, and to import into the ports of foreign Europe the productions and manufactures of China, with the exception of teas, is expressive of much solicitude in regard to that trade, especially as doubts may be entertained whether such permission does not come in conflict with the charter of the company trading to China, which will not expire before 1834.

With the dominions of Great Britain in the East Indies, vessels of the United States are permitted to import into and export from them whatever articles of merchandise are not prohibited; and, by the convention with Great Britain already mentioned, the United States are, with respect to this trade, put on the footing of the most favored nation.

The ports of St. Andrew's and St. John's in New Brunswick, the port of Halifax, in Nova Scotia, and those in Bermuda, were made free ports, with the view of securing to Great Britain the exclusive trade to her West India islands. This design has been, as will be seen hereafter, defeated by the act of the 15th of May, 1820.

In the ports of the British West India islands vessels of the United States are not admitted.

A document accompanying the report of the Committee on Foreign Relations, made the 9th of February, 1818, states that "very heavy duties have been recently imposed in the British West Indies on American produce, even when carried in British ships." "We should have less reason to complain," it is said in the same document "if the rigor which is shown towards us were dealt out in equal measure to other nations. But this is so far from being the case, that vessels under the flag of any European nation having colonies in the West Indies are admitted, under certain limitations as to size and the nature of their cargoes; the latter of which, however, may be composed of the very articles generally carried from the United States, as well as of indigo, dyewoods, specie, &c. And what must appear very singular in the conduct of a nation affecting extraordinary morality in its public as well as private character, by far the greater part of the commerce carried on under this admission of foreign vessels into her West India islands, is in direct contravention of the laws of the respective Governments to which they belong."

Cuba.—At the port of Havana, tobacco, beef, pork, fish, and butter, are subjected to a duty of about thirty-three per centum on a valuation; lumber and naval stores, from twelve a half to twenty-one and a half per centum ad valorem; flour, to eight dollars and sixty-two and a half cents per barrel. Tonnage duty the same as Spanish vessels pay in the United States.

All articles of American produce are admitted into the ports of Porto Rico on the payment of duties much lower than those paid at the port of Havana.

Guadaloupe.—Live stock, with the exception of horses, free. Salted beef and fish, the average duty of about twenty per centum ad valorem. All other permitted articles, including lumber, naval stores, leaf tobacco, vegetables, leather, fish oil, rice, Indian corn, and Indian meal, pay a duty of three per cent. ad valorem. Tonnage duty and other port charges on the vessel, when loaded with lumber only, fifty-seven cents; but when loaded with other articles, eighty-seven cents.

It is believed that the same articles are admitted, and the same duties are paid in Martinique as at Guadaloupe.

Hayti.—It is also believed that all articles of merchandise, except distilled spirits, are admitted into the ports of Hayti, and that the duties are specifically about equal to fifteen per centum ad valorem. Tonnage duty and other charges on the vessels, from one dollar and fifty cents to two dollars per ton.

St. Thomas.—The tonnage duty and other charges on the vessel do not exceed fifty cents, if that, per ton; and the duty on merchandise imported is very low.

St. Croix.—The duties on the produce of the United States are from five to ten per centum ad valorem, except on articles of luxury, which pay a duty of fifteen per centum ad valorem.

St. Bartholomew's.—The tonnage duty and other charges on the vessel are about twenty cents per ton, and the duty on merchandise imported is very low.

At *St. Eustasia* and *Curacao*, all the products of the United States are admitted on moderate terms.

Brazil.—Duties on merchandise pay twenty-four per centum if imported in American vessels, and nineteen per centum when imported in Portuguese vessels. Tonnage duty on American vessels the same as that on Portuguese vessels in the United States.

Your committee now direct your attention to the act of Congress, passed April 18, 1818, prohibiting commercial intercourse between the British West India islands and the United States in British vessels, and to the act supplementary to the above-mentioned act, passed the 15th of May, 1820.

To understand the policy of the United States in relation to this subject, it is necessary to look back, to revive recollections, and to combine many circumstances which seem to have escaped observation with many in forming a decision on a subject of great interest, and not altogether free from intricacy.

When the convention of the 3d of July, 1815, was under consideration, the Government of the United States proposed to the British Cabinet reciprocity of commerce between the United States and Great Britain and her dependencies. The propositions were urged and supported with force and ability. As the British West Indies are dependent on the United States for articles of the first necessity, and as they can get those articles only from them, the expectation that their vessels should participate in carrying to the islands the

produce of the United States was reasonable, and in justice ought to have been gratified.

The argument that the expense of protecting and defending the islands should give to the mother country an exclusive commerce with them, would be just and true only when the supplies wanted were drawn from the native resources of the mother country; but to claim the exclusive right to furnish the islands with the produce of other countries, is a claim that reason and conscience at once reject. The Government of the United States is likewise bound to protect and defend the rights of the American people; and that the means of defence intrusted to its management and use for the attainment of that end should not be diminished to increase those of any nation, is an argument still stronger in favor of this Government, because the supplies wanted for the islands are to be obtained from the resources of the United States. The British Cabinet refused to include the West India islands in the convention, and to open their ports to vessels of the United States. The convention was agreed to, and reciprocity of navigation and trade was confined to the commercial intercourse between the United States and His Britannic Majesty's dominions in Europe.

Each party was left free to do do what might seem best suited to its interest in relation to the British West India trade. The Government of the United States saw at once the policy which influenced the British Cabinet in excluding the West India islands from participating in the reciprocity which the convention established in favor of the British dominions in Europe with the United States. The policy of the British Cabinet was to destroy the equality of navigation which that convention had established between British and American vessels, and thereby to obtain the monopoly in favor of British vessels carrying the produce of the United States to Great Britain and her dependencies, and to other countries. The British Government indulged the hope that the ports of the United States would continue open to her vessels engaged in the West India trade, and that, should the American Government continue them open, British policy would attain the end sought. The chain of British navigation could not be entire until the link connecting the West India trade with the United States in British bottoms should become a part of that chain.

It is estimated that there are employed between Great Britain and her West India colonies about six hundred vessels. They go from the islands with full cargoes to Great Britain; and should the trade between her islands and the United States be kept open, after discharging their cargoes in the ports of Great Britain, they would there take in any part or portion of a cargo for the United States, as the freight would be an object for paying seamen's wages, their subsistence, or other expenses. The smallest sum would be a saving, and benefit the navigation so employed. On arriving in the ports of the United States, full freights for the British islands or other places could be obtained. Now, it must be evident from

this view, and the advantages British vessels would have over the American, that the former would be enabled to reduce the freight so low between the United States and Great Britain as to destroy all competition with her vessels. In other words, British vessels having full freights from the United States to British or other islands, and from the islands to Great Britain, the navigating interest of Great Britain would have it in their power to drive from the ocean American vessels.

Should British vessels, after landing a cargo in the islands from the United States, not finding one there for Europe, they could take in one for the United States, or return in ballast to Charleston, Savannah, or New Orleans, for a cargo of cotton, rice, or tobacco, for British European ports, or to any into which British vessels are admitted.

Since the aforementioned acts of navigation have been in operation, particularly the supplementary act of the 15th of May, 1820, British vessels, after landing their West India cargoes in British European ports, are obliged to return to the West Indies in ballast. The committee say in ballast, because the quantity of manufactures which are wanting for the British West India islands would not employ the sixtieth part of those vessels.

The freight of the cargo from the West Indies to Great Britain must, under such circumstances, be liable to a considerable deduction for the expense and insurance on the return voyage. Thus, the West India planter, having no choice of markets by the restrictive system, and being compelled to purchase the necessities of life and lumber at the highest prices, and to sell his produce low, is momentarily witnessing the ruin of his fortune.

But it has been said, with a view to render the navigation acts unpopular, that flour and breadstuffs are imported into Great Britain from the United States, and shipped from thence to the West Indies, by which artifice she eludes the effect of the navigation acts.

Without stopping to refute an argument that refutes itself, (for the price of the articles of consumption, being increased by the circuitry and length of the voyage, proves that those acts have the effect intended on British policy,) your committee will take the argument as true; and what will those who advance it gain by it? Vessels of the United States are admitted into British European ports, by the convention already mentioned, on an equality with British vessels. It is known, and the documents accompanying this report will prove the fact, that three-fourths of the tonnage employed between the United States and Great Britain belongs to the United States; the plain inference from this fact is, that American vessels excluded from the carriage of the produce of the United States to the British West India ports will come in for the greatest part of the carrying trade between the United States and Great Britain in the articles in that way destined for the British West India markets. If this be the policy of Great Britain, it injures her islands, and benefits American navigation.

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Thus the argument fails to answer the purpose intended. But the whole of it is fallacious, and nothing more is required to prove it to be so than a statement of facts. The documents annexed prove that, from the 1st of October, 1820, to the 30th of September, 1821, to the European ports of His Britannic Majesty, the following quantities only of flour and biscuit or ship-bread were shipped, viz:

WHITEN SHIPPED.	FLOUR.		BISCUIT OR SHIP-BREAD.		
	Barrels.	Value.	Barrels.	Kegs.	Value.
To England, Man, and Berwick - - - - -	94,061	\$343,789			
To Scotland - - - - -	480	2,000			
To Ireland.					
To Guernsey, Jersey, Sark, and Alderney.					
To Gibraltar - - - - -	56,396	230,207	2,555	1,106	\$7,956
	150,937	\$575,996			

ARTICLES SHIPPED.	To the West India islands* other than those belonging to Great Britain.		To the British West Indies.		To the British American colonies.	
	Barrels.	Value.	Barrels.	Value.	Barrels.	Value.
Barrels of flour - - - - -	527,418	\$2,193,684	13,357	\$54,857	130,795	\$499,250
Pork, hams, and bacon, lard, and hogs - - -	-	996,761	-	2,333	-	162,928
Indian corn - - - - -	-	114,412	-	28,863	-	59,930
Indian meal - - - - -	-	291,842	-	11,163	-	32,853
Rye meal - - - - -	-	21,234	-	1,353	-	29,283
Rye, oats, and other small grain - - - - -	-	30,486	-	3,445	-	6,673
Biscuit or ship-bread - - - - -	-	52,562	-	25,630	-	11,703
Tobacco - - - - -	-	252,000	-	5,348	-	40,160
Tobacco, manufactured - - - - -	-	57,760	-	227	-	16,857
Lumber, &c. - - - - -	-	745,145	-	103,843	-	316,065
Masts and spars - - - - -	-	14,801	-	551	-	-
Tar and pitch, rosin and turpentine - - -	-	14,406	-	936	-	13,087
Rice - - - - -	-	474,424	-	4,363	-	7,744
		\$5,258,917		\$242,912		

NOTE.—Should there be found any error in the above statement, it can be easily corrected by advertng to document E No. 1.

Your committee will now present this subject in another point of view. British navigation enjoys, in the trade of the West India islands belonging to other Powers, the same advantages that the American does.

Should the navigation acts of 1818 and 1820 be repealed, Great Britain will have, in favor of her navigation between the United States and her islands, the exclusive trade. It has been shown before, that, by such a repeal, British navigation would secure to itself the exclusive trade between the United States and the British dominions in Europe, as well as the additional means it would thereby acquire of supplanting ours in the ports

of other European nations, with which it may enjoy privileges not granted to ours. From all these advantages, some of which would be gratuitously conferred on British navigation, your committee will venture to ask, what chance for a fair competition would be left to the American? Much has been said in favor of free trade. The American Government desires nothing so much. By the act of the 3d of March, 1815, a free trade was, and is still, offered by the same act to every nation. In every negotiation on the subject of commerce it has been proposed. Can the Government do more than it has done? Can that be called a free trade when one party is in the full enjoyment of every privilege, and the other is not permitted to move, from restrictions and prohibitions imposed on him? If such can be denomi-

* See document E No. 1.

nated a free trade, words have lost their common meaning and acceptance.

This sort of free trade would soon prove itself to be an exclusive one in favor of British navigation. It would, in the first place, throw out of employment all the American tonnage, which is not inconsiderable, that is now engaged in the indirect trade; and, secondly, show what an humble pittance would be ours in the direct trade to the West India islands now open to our navigation. From the manner in which a free trade is often spoken of, an inference is drawn that the American Government restricts American navigation. Your committee take this occasion to say that nothing can be more unjust as it regards the American Government. Your committee deny that a solitary law can be found that restricts American navigation in any trade except the slave trade; and they with confidence assert that American vessels are at liberty to proceed with domestic and foreign produce and manufactures to any foreign port whatsoever; and, if American navigation is interdicted an entrance into any foreign port, that that interdiction is the act of a foreign Government, for which the American is in no manner whatsoever obnoxious to censure.

Could the policy which the British Government has been steadily pursuing be matured and carried into operation, from the apathy of nations to their true interests, it would give her the ascendancy over every nation in every market of the world.

The resources of every nation would be converted by that Government into the means of holding it in vassalage. If Great Britain could acquire such advantages in fair competition, the American Government would have no cause to complain; but to suffer her to acquire those advantages by her cupidity, and from her restrictive system on American navigation, would be, on the part of this Government; a dereliction of every principle of sound policy, and a palpable disregard of the interests of the American people. In endeavoring to place the American navigation on the footing of reciprocity, the Government is directed by a policy that is as enlightened as it is magnanimous, and, should it not countervail the restrictive systems of other nations, it would commit the great interests of navigation and commerce to the guardianship and mercy of foreign Governments. It has always been the desire of the American Government to secure to the citizens of the United States an even chance in the race of competition, by giving them a fair start; if they should lose in such a competition, the Government would be elevated above censure. It could, with truth, say to them, you have had secured to you equal ground in the contest; your country, the munificent gift of God, is rich, is abundant in resources; your Government is your own creation; it is considered the best of human institutions; if you do not prosper under the auspices of Heaven and the best of Governments, your failure in success must arise from causes the origin of which it is neither the desire, nor inclination, nor duty of those who administer it to explore.

Many considerations, besides those mentioned, had their weight in determining the Government of the United States to counteract the restrictive system of Great Britain. The ports of the West India islands belonging to other Powers were open to American vessels and produce. To allow British vessels to have free access to the ports of the United States from the British West Indies, when the ports of those islands are interdicted to vessels of the United States, would not only, as has been observed, be an abandonment of the principles of a free and liberal commerce, but a procedure so impolitic as might induce other nations, which now allow American vessels to resort to their ports with American produce, to adopt the exclusive and monopolizing policy of Great Britain.

Every nation is endeavoring to encourage its own navigation and industry, and to bring into operation and use the treasures which the bounty of Providence has bestowed. Were the United States to submit passively to British restrictions, could they complain if other nations having islands in the West Indies should shut their ports against American vessels carrying to them American produce? It is urged by some that, if British vessels were permitted to come to the ports of the United States, a better price could be obtained for American produce. This is but a conjecture, and Government would, in changing or modifying its policy, deserve justly the reprobation of an intelligent people were it to act from mere conjecture. But, admitting that a small advance in the price of a few articles should be the result, would the American people, who cherish the fondest and the purest affection for their country—would this people, the descendants of those who sacrificed every personal and selfish consideration for the independence and good of their common country, for a gain, at most, of a very few hundred thousand dollars, abandon just and fair principles of commerce—principles which other nations, by the invitation of this Government, have adopted, and which are now in successful experiment; injure greatly, if not vitally, American navigation; paralyze the naval arm of defence; subject the nation to the loss of millions of dollars, and, what is worth more than the wealth of worlds, to the loss of national character? These sacrifices, your committee believe, they will never consent to make when they shall fully understand the subject in all its various and important relations; when they shall see that such abandonment of principles is required for the purpose of permitting the British West India islands to be supplied directly with the produce of the United States in British vessels, instead of their being supplied circuitously or indirectly in American vessels. The British islands now procure most of their supplies indirectly from the islands open to American navigation; and it is believed by the most intelligent and experienced merchants in this country that very little more produce would be shipped to the British islands were the American ports open to British vessels. The tonnage of the United States now employed in the West India trade is considerable. From the 1st of October, 1820, to the 30th

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of September, 1821, the tonnage departing from the ports of the United States to the ports in the West India islands open to our navigation amounted to 329,360 tons, and the tonnage entering the American ports during the same year to 312,809 tons; and the value of the exports to the islands with which American vessels trade, as stated by the Treasury Department, for the year ending on the 30th of September, 1821, amounts to \$8,558,357, besides the value of produce shipped to British islands, to the amount of \$264,632.

No just estimate can be made, from the value of the produce exported to the West India islands previous to the war declared by the United States against Great Britain, and during the war in Europe, because the naval and military forces which the belligerents were compelled to have in those seas, and to garrison the forts in their respective possessions, required an unusual quantity

of the produce of the United States for their use and consumption; and as little reliance can be placed on an estimate made on the produce exported to those islands in 1817 and 1818, because those years were years of great scarcity. In 1817, the average price of flour for that year exceeded eleven dollars per barrel in the United States; and for the year 1818, the average of the same article exceeded nine dollars per barrel, also in the United States. Other articles rose likewise in value.

These are facts, and with dispassionate and reflecting men will have the influence they deserve.

The trade with the British islands has been magnified much beyond its intrinsic value. In the year 1816, British navigation had, between the British islands and the United States, the possession of that trade. In that year the importations into the United States were:

IMPORTATIONS.

Whence imported.	Rum.	Molasses.	Coffee.	Sugar.
	Gallons.	Gallons.	Pounds.	Pounds.
From the West India islands other than the British	2,564,190	7,334,417	22,049,735	41,709,934
From Brazil, &c.	2,539	355,984	306,961	1,320,218
From the British West Indies and American colonies	2,566,729	7,690,401	22,356,696	43,030,052
	1,767,841	581,598	1,975,110	6,603,482
Total importations	4,334,570	8,271,999	24,331,806	49,633,534
Total importations from all places from the 1st of				
October, 1820, to the 31st of September, 1821,	3,658,170	9,086,982	21,273,659	59,512,835
Of which there were imported from Great Britain				
and her dependencies only	127,724	26,559	159,674	334,631

NOTE.—See document D No. 1.

These facts speak a plain and intelligible language; they have neither art nor deception in them. It should neither escape the recollection of men in search of truth, that, besides the markets of the West India islands, which are open to American commerce, those of the continent of America south of the United States are likewise open, and will continue to be so, to American enterprise; that some parts of the United States already supply our markets with sugar, molasses, and rum. The average annual quantity of sugar made in Louisiana is estimated at twenty millions of pounds. In a few years more, the sugar made in the United States will be nearly equal, if not quite, to the home consumption. It should also be borne in mind (and the facts above stated prove the position taken) that we are daily becoming more independent of the British West Indies, and likewise of the islands belonging to other Powers, while all those islands will remain dependent on the United States for supplies of the first necessity. (See document.)

American statesmen should recollect that, by a late treaty with Spain, East and part of West Florida now form no inconsiderable portion of

the territories of the United States, and that they contain millions of acres of fine lands adapted to the growth of sugar cane; but, what is of the greatest political importance, those territories have large and commodious ports for the American navy, that they abound in the finest ship timber, and that, from their geographical position, they give the United States the liberty and opportunity of looking into the West India ports, and of seeing the trade of the most productive and valuable islands in those seas pass by their shores.

The effects of permitting British vessels to enter the ports of the United States, when the ports of the British West Indies are shut against the entrance of American vessels, have been, in general terms, mentioned. Your committee will now, in a more specific manner, show the magnitude of the interests that will be injured, and vitally, too, by a repeal of the navigation acts. This they cannot do in a better way than by making a plain statement of the interests that will be affected, accompanied with such remarks as naturally arise from the subjects under consideration. The tonnage of the United States, including that employed in the foreign and coasting trade and the

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fisheries, cannot at this time be valued at less than \$40,000,000. But who will venture to estimate its political, its national value? "The American tonnage employed," says Dr. Seybert, "in the foreign trade from 1795 to 1801, both years inclusive, amounted, in the aggregate, to 4,544,314 tons, or 649,187 tons per annum; the profits on it, if calculated at the rate of \$50 per ton for the average annual value of freight out and home, on voyages of every description, must have produced for freight alone \$32,459,350 per annum." In a note on this passage, it is said that the above estimate for the gain for freight is a moderate allowance; intelligent merchants have calculated it as high as \$70 per ton on voyages of every description. From the 1st of October, 1820, to the 30th of September, 1821, 765,098 tons of American vessels, employed in the foreign trade, entered the ports of the United States; and 804,947 tons, engaged in the foreign trade, departed therefrom. Your committee are desirous, in all their estimates, to keep moderation in view; as such, they prefer making their estimates lower than either facts or circumstances justify. They cannot persuade themselves that the present annual gain for freight can be fairly estimated at much less than \$20,000. No estimate is made for the freight carried by 661,118 tons of vessels employed in the coasting trade and fisheries.

This interest, this national interest, your committee humbly represent, is too great to be endangered for a good barely in contemplation; and were it a real one, its acquisition would be too dearly purchased by the sacrifice of so great a national interest.

American navigation is the nursery of American seamen, and the true interest of this nation requires that it should be encouraged and protected. Should it be greatly injured by the adoption of any impolitic measure, our Navy would be vanquished, not by British prowess, but by British policy. Our seamen, the artificers of commercial wealth in peace, and in war the intrepid defenders of their country's honor and rights, would be driven to seek employment and subsistence from the enemies of their country. Our shipwrights, and all artists connected with the art and mystery of shipbuilding and navigation, would be by necessity compelled to migrate to distant lands, and earn in some other vocation their pittance of bread.

The Atlantic States would, in having their security and enterprise diminished and circumscribed, lose their population, and the entrance into and the departure from every river and bay in the United States, from the Passamaquoddy to the Sabine, might be interdicted to American vessels by a few ships of war belonging to any Power hostile to the United States. The expenditures for the service of the militia during the last war were immense, and the duties imposed during that war on the citizens of the United States oppressive and burdensome. Had the United States at that time strong fortifications at proper points, and an efficient Navy, a few British ships of war, with a small floating military force, would never

have ventured into the waters of the United States; nor would the Government have been under the necessity of incurring enormous expenditures, and subjecting the citizens to severe and countless privations.

Such considerations as these impress your committee with a conviction that they should not rashly condemn a policy which was adopted after much deliberation, with a unanimity uncommon in matters of such importance and interest, which has been persevered in with the same spirit in which it originated, and which is at this time, after full experience to test its wisdom, generally approved.

The United States possess from the bounty of Providence the greatest advantages. No nation has within itself more ample means of self-subsistence. Variety of climates and soils favorable to agriculture in its greatest extent, raw materials without stint for manufactures, and numerous navigable rivers for transportation, are theirs. Abounding in productions of every sort, they have all the means that can be desired for extensive commerce. And it becomes with them an important consideration to secure to their produce and manufactures, under all circumstances, a safe and ready transportation in their own vessels to markets at which they shall be in demand. If we give up the transportation of them to other nations, the consequence will be a depression of their price; because any nation that has a superior navy, when the nations of Europe shall be at war, will have in one or another mode the monopoly of our produce, and the means of depriving our manufactures of a foreign market. The nation that can, by its naval power, command our market, will prevent competition, buy cheap, and sell even to its enemy, at high prices, our produce, as Great Britain did during the last European war to France. In a former part of this report the captures of American vessels with their cargoes as stated, and the transit duties we were compelled to pay Great Britain for a license to trade with other foreign nations, must be recollected with indignant feelings by every man who honors and loves his country.

To possess the means of transportation is to us an invaluable right. To enjoy it, it is only necessary to rely on the resources which Providence has bestowed. A nation may be strong on land and feeble on the ocean; and another may be the reverse, comparatively feeble on the land and powerful on the ocean. Great Britain, compared with France, affords an apposite instance; her wealth, the product of manufactures and commerce, and her naval preponderance, gave her the ascendancy in her late contest with France, enabling her to overthrow a colossal Power that at one time dictated law to continental Europe. These are historical facts, and mentioned for no invidious purpose, but to show that our physical and moral force, how great soever it may be, if confined to land, will not give those advantages that are essential to agricultural, manufacturing, and commercial prosperity.

A navy, efficient, but not large, would secure every benefit that we could desire.

Whosoever the nations of Europe shall engage in war, the consciousness that our power thrown into the scale of either party would give to that scale into which it should be thrown the preponderance, will be sensibly felt in the comity observed towards us, and in the security with which our commerce would move. Our produce and manufactures would always have a ready and safe transportation. Our vessels would go, in peace or in war, uninterrupted everywhere, be welcomed into every port, and, having the markets of the civilized world opened to their access, would bring our produce and manufactures into demand, raise their price, and (what is no little advantage) insure, as far as that is attainable, steadiness in the markets.

These remarks are made, not only because your committee deem them worthy of consideration, but with a view of drawing public attention to the able report made to Congress in the year 1791, under the presidency of Washington, by Thomas Jefferson, then Secretary of State, on the subject of navigation and commerce. The views then taken are so just and applicable to the present state of things, that your committee beg leave to cite so much as has a bearing on the subject now under consideration, and to make the same a part of this report.

"Our commerce is certainly of a character to entitle it to favor in most countries. The commodities we offer are either necessities of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market—customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

"But should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens, their commerce and navigation, by counter-prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them.

"Our navigation involves still higher considerations. As a branch of industry, it is valuable; but as a resource of defence, essential.

"Its value as a branch of industry is enhanced by the dependence of so many other branches on it. In times of general peace, it multiplies competitors for employment in transportation, and so keeps that at its proper level; and in times of war, that is to say, when those nations who may be our principal carriers shall be at war with each other, if we have not within ourselves the means of transportation, our produce must be exported in belligerent vessels, at the increased expense of

war freight and insurance, and the articles which will not bear that must perish on our hands.

"But it is as a resource of defence that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their landboard, and nothing to desire beyond their present rights; but, on their seaboard, they are open to injury, and they have there, too, a commerce which must be protected. This can only be done by possessing a respectable body of citizen seamen, and of artists and establishments in readiness for shipbuilding.

"Were the ocean, which is the common property of all, open to the industry of all, so that every person and vessel should be free to take employment wherever it could be found, the United States would certainly not set the example of appropriating to themselves exclusively any portion of the common stock of occupation. They would rely on the enterprise and activity of their citizens for a due participation of the benefits of the seafaring business, and for keeping the marine class of citizens equal to their object. But, if particular nations grasp at undue shares, and, more especially, if they seize on the means of the United States to convert them into aliment for their own strength, and withdraw them entirely from the support of those to whom they belong, defensive and protecting measures become necessary on the part of the nation whose marine resources are thus invaded, or it will be disarmed of its defence; its productions will be at the mercy of the nation which has possessed itself exclusively of the means of carrying them, and its politics may be influenced by those who command its commerce. The carriage of our own commodities, if once established in another channel, cannot be resumed at the moment we may desire. If we lose the seamen and artists whom it now occupies, we lose the present means of marine defence, and time will be requisite to raise up others, when disgrace or losses shall bring home to our feelings the error of having abandoned them. The materials for maintaining our due share of navigation are ours in abundance; and as to the mode of using them, we have only to adopt the principles of those who thus put us on the defensive, or others equivalent and better fitted to our circumstances."

The memorials and resolutions which have been referred to the committee have received the consideration due to them. They find that the prominent objections contained in them to the act of the 18th of April, 1818, and the supplementary act of the 15th of May, 1820, are as follows:

1st. That the operation of those acts injures materially the agriculture of the Southern States.

2d. That the policy pursued by the Government of the United States will occasion the loss to them of the British West India market, by compelling the British Government to procure supplies for the islands in other countries.

3d. That the system of countervailing British restrictions has been tried, and found inefficient.

In answering the first objection, your committee state that nearly, if not four-fifths of the produce exported to the West India islands other than those belonging to Great Britain, from the 1st October, 1820, to the 30th September, 1821, according to the statement made in page 2247, appears to be the produce of the Southern States; and if the general views taken by your committee be just, no States in this Union are more interested in the encouragement of American navigation, or require more an efficient navy to protect their exposed maritime frontier, than the Southern States. Your committee further state that every attention to defend the maritime frontier, by the erection of competent fortifications, has been bestowed, and that large contracts for timber for naval purposes, and expenditures of money, have been made for navy yards, and for building ships of war there. In short, in every instance has the Government of the United States shown its solicitude and care for their permanent welfare and prosperity.

Your committee are of opinion that they cannot give to all the objections above mentioned an answer more satisfactory than is contained in the petition of the Council and Assembly of Granada, unanimously adopted in July, 1821, to the British House of Commons; the representations and reasons therein set forth and urged by the petitioners being in perfect accordance with those made and urged by Jamaica and other islands on the subject of their grievances.

As those islanders may be presumed to understand their own interest, and to know best their wants, and the countries on which they are dependant for their supplies, your committee think they cannot render any service to their country more acceptable or better adapted to the diffusion of correct information, than to give the views which those islanders have drawn of their situation. Their sufferings and feelings, expressed in their own style and manner, afford the best evidence that can be offered that the aforementioned navigation acts are producing the effects intended, and that our countervailing policy is in direct opposition to the predictions uttered, rendering the British West India islands worse than useless to Great Britain.

"The petition of the Legislative Council and General Assembly of Granada and its dependencies humbly sheweth:

"That, from causes which we respectfully beg leave to lay before Parliament, the island of Granada, in common with the other West India colonies, is now reduced to a state of the greatest distress. With all deference, we submit our case to the consideration of the honorable House of Commons, trusting that, in its solicitude for the general welfare, it will not be insensible to the hardships we lie under, and to the difficulties with which we have to contend; and we firmly rely on its wisdom and justice to afford us the relief that is absolutely necessary to save us from impending ruin.

"The sources of our present distress may be classed under two heads. The first is the almost

total interruption of our commerce with the United States of America, by which we are prevented from receiving, at moderate prices, the productions of the States, and are deprived of an extensive market for our rum and molasses, which are readily received in barter for the supplies with which they furnished us. The second source is the depressed state of those markets for our staple commodities to which we are allowed access. It is a fact which we believe no attempt will now be made to controvert, that the sugar colonies are dependant on the United States of America for a great part of the supplies they require of dry provisions, staves, and lumber of all sorts; and that although part of these may be furnished by our own northern States, yet of some kinds they are altogether destitute, and such as they do produce cannot be purchased from them on such favorable terms as from the inhabitants of the American States in barter. In the years 1810, 1811, and 1812, when American vessels were admitted into our ports, lumber and staves of all kinds were to be purchased at a price little exceeding one-half of that which we at present pay, whilst for our rum, which we deliver in barter, we received about one-fourth more than we do now. On the restoration of peace with the United States we were tolerably well supplied, as long as British vessels from these islands were admitted into our ports; and we did not experience any great difficulty even after the passing of the non-intercourse act, so long as our rum was received in barter, but were supplied through our own free ports, though at advanced prices, until the passing of the supplementary act, on the 20th May, 1820, which prohibits the importation into the United States from the British provinces and free ports of all articles the produce of the British West India islands; the consequence of which is, that the barter trade is now completely at an end. All purchases of American articles, whether made in our northern provinces or in Bermuda, must be made with money or bills of exchange, which again must be provided for by remittances to England. We do further beg leave respectfully to represent, that the British North American provinces afford no market for our rum further than their own consumption; and that the whole of this, including Newfoundland and the fisheries, has been correctly ascertained to be under twenty-five thousand puncheons per annum—about the produce of two of the small islands. It is, therefore, evident that, were these provinces even capable of supplying our wants, we could not purchase from them, from their inability to take off our produce in payment. But the provinces of Nova Scotia and New Brunswick produce no pitch pine, very little red oak, and scarcely any white oak timber; and they at times are dependant on Canada and the States for flour and other dry provisions for their support. The Canadas, it is true, produce considerable quantities of timber suitable to our purposes, but the labor of preparing and bringing them to market is very great, which, with the length and difficulty of navigation, and consequent additional freight and other charges, enhances the cost to nearly double

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of that which is now imported in the United States by free ports. And it is also to be taken into account that the navigation of the St. Lawrence is shut up for nearly half a year. With all deference and humility we beg leave to represent that, as a constituent part of the empire, we are entitled to an equal share of the protection and fostering care of a parent State; and, also, that we ought to be allowed the means of supplying our wants on the best and cheapest terms, and in those markets where our produce is readily taken in exchange. We have no wish whatever to attempt to magnify the importance and value of the sugar colonies to the mother country, at the expense of other possessions; but, under existing circumstances, we trust we shall be excused for requesting the attention of Parliament to the relative value of these colonies and the North American provinces, as appears by the annexed document, made out from the most authentic sources.

"In order, therefore, to grant the necessary relief, and to remove our present distress and difficulties, we do humbly suggest that the ports of these islands should be generally thrown open for the admission of American vessels. In doing so, as matters are at present situated, little injury would be done to the trade and shipping of the United Kingdom. In the present restricted state of the American commerce, the greater part of our supplies is conveyed a part of the voyage by their own vessels. It could, therefore, make very little difference to allow the Americans to come to our ports at once; and this would be more than compensated by our shipping being then permitted to trade direct to the States. We may add, that the trade betwixt these islands and Nova Scotia and New Brunswick, in native vessels, is now nearly at an end; few of them come here, and we can place no dependence on a regular supply. This arises from their market being already overstocked with the produce they receive in exchange."

Your committee feel themselves under the necessity of making a few remarks before they close this part of their report. They are urged to submit them in consequence of errors evident in some of the memorials referred to them.

The act concerning navigation, which passed the 18th of April, 1818, and the supplementary act of May 15, 1820, have been assimilated to the embargo and non-intercourse laws, and all those acts, taken together, considered as forming but one system, having at different times the same object in view. This is evidently a misconception of the nature and design of acts which did not originate in the same causes, and which are deducible from times and circumstances that have no relation whatsoever. Let facts speak for themselves. On the 8th of December, 1807, the following message was sent to Congress by Thomas Jefferson, President of the United States:

"The communication now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened on the high seas and elsewhere, from the belligerent Powers of Europe, and it being of the greatest importance to keep in safety these essen-

tial resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States."

The Government of the United States desired nothing so much as to secure our seamen from impressment, and our commerce from violation; and it was always ready, on the revocation of the edicts of the belligerents, to repeal the embargo and non-intercourse laws. The fourth section of the act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes, passed May 1, 1810, enacts that, in case either Great Britain or France shall, before the 3d of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President shall declare by proclamation, &c., and when the fact shall be so announced, the commercial intercourse shall be renewed with the nation which shall have ceased to violate the neutral commerce of the United States. "The French Government declaring, on the 5th of August, 1810, that the decrees of Berlin and Milan were revoked, and that after the 1st of November, 1810, they would cease to have effect," upon this assurance the President of the United States, on the 2d of November, 1810, issued a proclamation, announcing the fact, thereby giving effect to the provision of the fourth section of the said act. From this statement, it is evident the embargo and non-intercourse acts had objects in view different from those which the acts of the 18th of April, 1818, and the 15th of May, 1820, are designed to obtain. When the embargo and non-intercourse laws were in operation, the ports of the West India islands were open to us, but our vessels, in going to or coming from them, were subjected to violence and outrage by the ships of war and privateers of the belligerent Powers. It has been also urged, as an argument against the acts of the 18th day of April, 1818, and the 15th of May, 1820, that the countervailing policy which they establish has been tried, and found unavailing.

This argument is more specious than solid. The premises from which it is drawn have been assumed. It is in direct opposition to the fact.

Your committee state, with confidence, that the last-mentioned acts are the only acts that have ever formed a systematic plan for countervailing the restrictive system of Great Britain in relation to her West India islands.

Your committee have, in many instances, been reluctantly compelled to notice the policy of Great Britain to this country, and particularly that which she has observed in regulating the trade of her colonies.

While they cannot refrain from expressing feelings of sincere respect for the virtues of a Wilberforce, and those worthies who have, in the spirit of enlightened humanity, co-operated with him to abolish the slave trade, they regret that they cannot bestow on the British Government praise for disinterested exertions in endeavoring to destroy a traffic that is as barbarous as it is disgraceful.

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They see in its efforts a cold calculating policy, to acquire for the British colonies advantages over the colonies and possessions of other Powers in those regions. It considers their improvements in cultivation as incompatible with the prosperity of its own.

The committee forbear to enlarge on this subject, as it is one that cannot produce other than painful feelings and reflections. They present to the House, with these observations, a part of the petition of the Council and Assembly of Granada to the British Parliament, touching this subject. The part here given speaks for itself; it is the key that unlocks the British Cabinet, and exposes to broad daylight the secret workings and machinations of its policy.

"The next cause of the depression of the price of colonial produce is, our being almost entirely excluded from the market of the continent of Europe. A perseverance in the present numerous and burdensome restrictions on the trade with foreign Powers is severely felt by the West India planters as well as by the British manufacturer. But the chief cause of this exclusion from the markets on the continent of Europe is the immense quantity of foreign sugars with which it is now supplied, arising from the enlarged cultivation of the foreign colonies, and which they are enabled to increase to an unlimited extent, by the continuance of the slave trade. This traffic, which is so much condemned and justly reprobated by the British Parliament and the public, is at present carried on, there is reason to think, to a greater extent than in any former period. At the time the abolition laws were passed, it was contemplated that Government would have sufficient influence with foreign Powers to induce them to adopt a similar measure. In this we have most lamentably been disappointed; and whilst, from our diminished slave population, our productions are on the decline, we have the mortification to see those of the foreign colonies regularly increasing.

"A due consideration of all these circumstances, we conceive, will be found to furnish us with an additional claim upon Parliament and the mother country. We humbly represent that, in the present situation of the colonies, no impediment should be thrown in the way of providing for the health, comfort, and well-being of our slaves, and of carrying on the cultivation of our plantations at the least expense and to the best advantage. The present restriction in our commerce with the United States completely operates as such; and as we now have but little prospect of a foreign market, we earnestly hope that every measure that may tend to a more general consumption of our produce at home, or otherwise to relieve the planter, will be adopted."

Your committee now proceed to present a statement of the commerce of the United States, from the 1st of October, 1820, to the 30th of September, 1821. To understand clearly the commerce of that year, a few introductory remarks are made previously necessary. They are induced to make them with an intention of preventing erroneous

impressions. Statements of facts should be made with caution, and, when made, a reference should always be had to the time and circumstances which gave them existence. By acting in this manner every thing is seen, as well as human reason will permit it, in its proper light—in its various bearings on, and comparisons with other things. The reverse of this procedure leads to inferences as erroneous and unjust as they will be mischievous in their consequences. Party views may be promoted by it, and hostility to particular measures and men be gratified; but the peace and harmony of this nation will be destroyed, and its best interests will suffer severely. Every attempt, if we may be allowed the expression, to fix the latitude and longitude of distinct feelings and interests, weakens the bonds that unite us as one people, and defers, if it shall not destroy, the prosperity we desire. It produces feuds and divisions which the arts and intrigues of foreign Governments, by their agents, never fail to foment, to promote their views. Your committee can see no cause for the indulgence of apprehensions arising from a supposititious difference of interest and views. The danger of indulging them is forcibly represented by General WASHINGTON in his last Farewell Address; and your committee cannot render a more important service to those who indulge such apprehensions than to recommend a serious perusal of it, to remove them effectually.

Your committee now aver, and this averment is not lightly nor rashly, but coolly and deliberately made, that the success of foreign policy, manifestly hostile to the just rights and expectations of the United States, has been grounded on a supposed difference of interests existing between the Northern and Southern States, and on the collisions which such a supposed difference would produce in our political family and domestic concerns.

On the peace in Europe, and particularly on the conclusion of peace between the United States and Great Britain, it was supposed that the demand in Europe and the United States for produce and manufactures would be so great as to justify importations and exportations without any regard to quantity, and, in some instances, even as to value. The importations of foreign manufactures into the United States were uncommonly large, perhaps double or treble what they had ever been before, for the same time. These increased the revenue arising from duties on merchandise imported for the years 1815 and 1816 to \$27,000,000 and to \$36,000,000. Tobacco and cotton at that period bore high prices, particularly tobacco. Those importations and exportations, being greatly over the demand, necessarily ruined many, and diminished considerably the importations of subsequent years, and also the revenue arising from the duties.

Flour, in consequence of the foreign demand, bore a high price in the years 1816, 1817, and 1818; for the year 1820, and half of the year 1821, the price was much lower than usual, owing to the want of a demand for it in Europe. The shipments of flour for the West India islands open to American navigation, as has been shown in a

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former part of this report, were great, amounting in the year 1821 to 540,775 barrels.

We are now brought to the time when, from its distance from the general peace of Europe, it may be reasonably supposed that things have nearly accommodated themselves or settled down to the relations of peace. In comparing the commerce of the United States for the year 1821 (we mean the fiscal year) with that of preceding years, the facts above stated should be weighed with deliberation; and in connexion with this additional and important one, that the severest depression which commerce has experienced since the general peace in Europe was experienced in the first and second quarters of the year 1821. At the last-mentioned time it seems to have reached its lowest point of depression. We trust we have now passed the crisis of our greatest sufferings, and that our prospects as to the future are flattering. The indications that commerce is reviving are, an increase of the revenue arising from the customs; the full proportion, as will soon appear, which our navigation obtains of employment; the value of the produce and manufactures exported exceeding that of the merchandise imported—a circumstance which has not before occurred since the late peace with Great Britain; and the great satisfaction which five-sixths of the merchants express as

to the policy which the Government has adopted in relation to commercial affairs. All they ask of the Government at present is, to let things remain as they are, confidently relying that time and enterprise, directed by prudence and judgment, will accomplish the object every patriot has in view—the prosperity of our common country.

Your committee will now submit a statement of facts, with such explanatory remarks as may be necessary.

First, as to the tonnage of the United States paying duties.

The committee are not a little gratified, on examination, to find that the tonnage of the United States which paid duties for the year 1820 exceeds that of any year since the adoption of the Constitution; this fact will, we trust, remove every cause for distrusting the statements of tonnage made under the direction and superintendence of the Treasury Department, because the tonnage paying duties, as in existence, is something tangible.

It shows that the tonnage is employed; for if it were not, the duties could not be collected from it; and the following facts show not only that it is employed, but that it is getting the advantage, under existing circumstances, in its competition with the foreign tonnage.

Statistical view of the commerce of the United States, exhibiting the value of imports and exports; also the tonnage of American and foreign vessels arriving into and departing from the United States, and the tonnage belonging to each foreign Power employed in the commerce of the United States for the year ending 30th September, 1821.

COMMERCE.

Value of imports.			Value of domestic imports.			Value of foreign exports.		
In American vessels.	In foreign vessels.	Total.	In American vessels.	In foreign vessels.	Total.	In American vessels.	In foreign vessels.	Total.*
58,025,899	4,559,825	62,585,724	34,465,272	9,206,622	43,671,894	20,710,700	591,788	21,302,488

NAVIGATION.

American tonnage.		Foreign tonnage.	
Entered into the United States.	Departing from the United States.	Entered into the United States.	Departing from the United States.
765,098	804,947	81,526	83,073

* Total value of domestic and foreign produce exported \$64,974,382

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STATEMENT—Continued.

	Foreign tonnage entered into the United States be- longing to each Power.	Foreign tonnage departing from U. States be- longing to each Power.
Prussian - -	931	931
Swedish - -	5,386	5,602
Danish - -	4,037	3,931
Dutch - -	2,466	4,530
British - -	55,188	55,686
Hanse Towns -	6,024	4,749
French - -	1,916	2,872
Haytian - -	370	470
Spanish - -	4,580	4,154
Uncertain - -	628	148
	81,526 tons.	83,073 tons.

Secondly, the district or actual tonnage.

The statement A, No. 3, gives the actual tonnage of registered, enrolled, and licensed vessels, and of fishing vessels. In the statement referred to, the Register of the Treasury, in a note on the registered tonnage for the year 1818, says: "The decrease of tonnage in this year arises principally from the registered tonnage having been corrected in 1818, by striking off all the vessels the registers of which were granted prior to the year 1815, and which were supposed by the collectors to have been lost at sea, captured, &c." Had the tonnage been corrected in the year 1816, the registered tonnage of that and the following year (1817) would have been reduced in the same proportion.

The reason the tonnage paying duties is greater in the amount than the actual tonnage, is this: vessels engaged in the foreign trade pay duties for every voyage they perform, and sometimes the same vessel performs from two to three voyages. Vessels engaged in the coasting trade and fisheries pay duties but once a year. More new vessels were built in the years 1815, 1816, and 1817, and more in 1815 than in any preceding year. The cause of this is evident. Many vessels had been captured during the war with Great Britain. After the peace, our shipping was not equal to the demand for the foreign and coasting trade and the fisheries; and the same cause continued, with weakened force, to operate on the years 1818 and 1819. The tonnage being now competent to our proportion of navigation, the demand for so great a quantity of new tonnage will not exist. Shipbuilding is a manufacture of no inconsiderable extent, and the foreign demand for vessels, together with the home, will always give it due encouragement.

From the facts stated, we are much gratified to find that the only period of time which has occurred since the adoption of the Constitution, of testing, during a state of general peace, our commercial enterprise with that of foreign nations, has proved our ability to sustain that competition. The documents annexed will, we think, support

us in entertaining that belief. So far are we, after taking every view suggested by reason or fancy of the subjects to which our attention has been called, from seeing any benefit that could possibly accrue to the United States by a change of their policy, that we are more than ever impressed with the deepest conviction that such a change would be productive of the greatest injury to our navigation and commerce, and would ultimately impair to that degree our means for naval defence as to make the policy of keeping up the Naval Establishments a question deserving the serious investigation of the National Legislature. We have the strongest reasons to believe (and this belief is founded on information drawn from pure sources) that the British West India islands cannot be made profitable to the mother country but from supplies which the United States are alone competent to furnish.

The productions of the British West India islands, we know to a certainty, cannot now stand any competition in foreign markets with the same productions from Brazil, the East Indies, and the West India islands belonging to other Powers.

We are fully apprized that our countervailing policy is operating its effect. The British islands are now suffering the greatest privations, and some of them are losing their population.

We regret with sincerity their sufferings. The policy of the United States in relation to them was adopted with reluctance, and not till Great Britain had refused to permit the United States to participate in a just and fair trade with her islands. So conscious was the Legislature of Granada of the reluctance on the part of the American Government to resort to that measure, that it did not, in the petition aforementioned, express the slightest censure as to the course taken by the American Government.

We are of opinion, after contemplating, after viewing Great Britain in every relation in which she has stood to the American people, that she is the last nation that ought to expect they would knowingly sacrifice their navigation and commerce, and their maritime rights, to support the maritime rights of Great Britain; and your committee will be among the last to recommend such a sacrifice to gratify the inordinate, the overweening ambition of any nation.

Convinced that the true interest of the United States, and that the great principles which the Government has always advocated in favor of free commerce, forbid a change of policy; acting as the committee do from such convictions, and from a sense of public duty, they feel themselves bound respectfully and unanimously to recommend to the House the adoption of the following resolutions.

Resolved, That the act concerning navigation, passed the 18th of April, 1818, and the act supplementary to the act concerning navigation, passed the 15th of May, 1820, made necessary to countervail the restrictive systems of Great Britain and France, and for the protection of the navigation and commerce of the United States from injuries, are still, and, as long as those adversary systems

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shall continue, must be necessary to protect from injuries the same great interest, and ought not to be repealed.

Resolved, That the Government of the United States, having uniformly declared and avowed its attachment to the principles of free commerce, and having, in the treaties which it has formed and agreed to with foreign nations, and in its legislative acts adhered to them, should be the last to abandon them, and especially at a time when every just and enlightened nation is conforming its commercial policy to an accordance with those principles.

A No. 1—*Summary statement of the Tonnage of the United States—tons and ninety-fifths.*

Years.	Registered tonnage em- ployed in for- eign trade.	Enrolled tonnage em- ployed in the coasting trade.	Enrolled tonnage employed in the fisheries.		LICENSED VESSELS UNDER TWENTY TONS.		Total tonnage of every de- scription.
					Empl'd in the coasting trade.	Empl'd in the cod fishery.	
1780	123,893 00	68,667 00	9,062		-	-	201,562 00
1790	346,254 00	103,775 00	28,348		-	-	478,377 00
1791	363,110 00	106,494 00	32,542		-	-	502,146 00
1792	411,438 00	120,957 00	32,062		-	-	564,437 00
			Whale fish'ry.	Cod fishery.			
1793	367,734 23	114,853 10	-	38,177 00	7,217 53	11,985 64	491,780 50
1794	438,862 71	167,227 42	4,139 00	23,121 00	16,977 36	5,549 50	628,816 99
1795	529,470 63	164,795 91	3,162 68	24,887 06	19,601 59	6,046 05	747,963 92
1796	576,733 25	195,423 64	2,363 51	28,509 39	22,416 66	6,453 41	831,900 86
1797	597,777 43	214,077 05	1,103 70	33,406 67	23,325 64	7,222 31	876,912 80
1798	603,376 37	227,343 79	763 09	35,476 81	24,099 43	7,269 37	898,328 26
1799	669,197 19	220,904 46	592 29	23,932 26	25,736 08	6,046 17	946,408 45
1800	669,921 35	245,295 04	651 74	22,306 94	27,196 91	7,120 06	972,492 04
1801	718,549 60	246,255 34	736 35	31,279 57	28,296 19	8,101 85	1,033,218 90
1802	560,380 63	260,548 16	580 08	32,987 42	29,079 58	8,533 56	892,101 43
1803	597,157 05	268,676 12	1,142 49	43,416 20	30,384 34	8,396 24	949,147 44
1804	672,530 18	286,840 01	323 40	43,088 08	30,696 56	8,925 73	1,042,403 96
1805	749,341 22	301,366 38	898 13	48,479 30	31,296 73	8,986 37	1,140,368 93
1806	808,284 68	309,977 05	728 50	50,353 20	30,562 54	8,829 57	1,208,735 60
1807	848,306 85	318,189 93	907 17	60,689 88	30,838 39	8,616 20	1,268,548 42
1808	769,053 54	387,684 43	724 20	43,597 40	33,135 33	8,400 22	1,242,595 12
1809	910,059 23	371,500 56	573 12	26,109 67	33,661 75	8,376 93	1,350,281 26
1810	984,269 05	371,114 12	339 24	26,250 91	34,232 57	8,577 28	1,424,783 27
1811	768,852 21	386,258 70	54 17	34,360 85	34,103 55	8,872 76	1,232,502 39
1812	760,624 40	443,180 75	941 94	21,822 64	34,790 78	8,636 65	1,269,997 36
1813	674,853 44	433,404 87	788 74	12,255 30	37,703 87	8,622 13	1,166,628 56
1814	674,632 63	425,713 59	561 55	8,863 35	40,443 44	8,992 23	1,159,208 89
1815	854,294 74	435,066 87	1,229 92	26,510 33	40,598 51	10,427 26	1,368,127 78

NOTE.—The documents in the Treasury did not designate the tonnage employed in the whale fishery to the year 1794.

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A No. 2.—A statement showing the amount of tonnage on which duties were collected, employed in the foreign, coasting, and fishing trade, of the United States, for the years ending December 31, 1816, 1817, 1818, 1819, and 1820.

Years.	AMERICAN VESSELS.			Foreign tonnage.	Total American and foreign tonnage.	Proportion of foreign tonnage to the whole amount employed in the foreign trade of the United States.
	In foreign trade.	Coasting trade.	In fishing trade.			
1816	877,461	414,594	48,147	259,017	1,599,219	22.8 to 100
1817	780,136	468,999	62,509	212,420	1,524,064	21.4 to 100
1818	755,101	600,379	61,453	161,414	1,578,347	17.6 to 100
1819	783,579	600,917	76,919	85,554	1,546,969	9.8 to 100
1820	801,253	660,730	69,423	79,204	1,610,610	8.10 to 100

TREASURY DEPARTMENT, REGISTER'S OFFICE, February 27, 1822.

JOSEPH NOURSE, Register.

A No. 3.—A statement showing the amount of the district or actual tonnage of the United States for the years ending on the 31st of December, 1816, 1817, 1818, 1819, and 1820.

Years.	Registered tonnage.	Enrolled and licensed tonnage.	Fishing tonnage.	Total.	Tonnage of vessels built†	Tonnage of vessels lost.‡	Tonnage of vessels † sold to foreigners.	Condemn'd as unseaworthy.‡
1816	800,759	522,164	49,294	1,372,217	131,667	22,591	23,379	6,702
1817	809,724	525,029	65,157	1,399,910	86,393	20,673	14,227	8,411
1818*	606,088	549,374	69,721	1,225,183	82,421	31,395	15,106	10,721
1819	612,930	571,058	76,762	1,260,750	79,817	24,164	11,364	13,029
1820	619,047	588,025	73,093	1,280,165	47,783	23,833	6,062	13,666

TREASURY DEPARTMENT, REGISTER'S OFFICE, February 27, 1822.

JOSEPH NOURSE, Register.

A No. 4.—A statement of the tonnage of new vessels annually built within the United States, founded on the Collectors' abstracts transmitted to the Treasury Department of the United States.—Tons and ninety-fifths.

Years.	Registered.	Enrolled.	Total.
1803	56,671 83	31,796 52	88,448 40
1804	73,649 39	30,104 52	103,753 91
1805	97,373 57	30,533 41	128,507 03
1806	93,971 61	32,121 63	126,093 29
1807	71,175 85	28,608 07	99,783 92
1808	11,776 45	19,978 34	31,755 34
1809	72,219 92	19,177 58	91,397 55
1810	102,479 72	25,096 14	127,575 86
1811	108,395 72	38,296 10	146,691 82
1812	58,677 21	26,014 21	84,690 42
1813	18,482 46	12,670 89	31,153 40
1814	13,445 55	15,594 35	29,039 90
1815	106,079 33	48,545 06	154,624 39
1816	62,206 41	69,461 45	131,667 86

* The decrease of tonnage in this year arises principally from the registered tonnage having been corrected in 1815 by striking off all the vessels the registers of which were granted prior to the year 1815, and which were supposed by the collectors to have been lost at sea, captured, &c.

† This tonnage is added in each year to the total amount of tonnage.

‡ This tonnage is deducted in each year from the total amount of tonnage.

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A No. 5.—Statement exhibiting the quantity of tonnage entered and cleared in and from the respective States and Territories during the year ending on the 30th September, 1821.—In tons.

STATES AND TERRITORIES.	AMERICAN VESSELS.		FOREIGN VESSELS.	
	Entered.	Cleared.	Entered.	Cleared.
Maine - - - - -	71,700	111,854	883	520
New Hampshire - - - - -	9,506	8,237		
Massachusetts - - - - -	158,891	129,741	1,605	1,170
Vermont - - - - -	1,019	901	80	40
Rhode Island - - - - -	22,808	21,314	143	107
Connecticut - - - - -	16,464	14,749		
New York - - - - -	156,493	158,174	13,856	10,720
New Jersey - - - - -	250	231		
Pennsylvania - - - - -	70,679	69,436	4,162	3,641
Delaware - - - - -	4,081	2,388		
Maryland - - - - -	67,504	61,687	5,489	4,677
District of Columbia - - - - -	12,546	15,035		
Virginia - - - - -	27,004	33,545	4,598	6,483
North Carolina - - - - -	29,904	37,343	293	109
South Carolina - - - - -	30,524	45,342	18,745	19,525
Georgia - - - - -	24,075	41,468	11,239	14,666
Mississippi - - - - -	6,235	4,197	336	419
Louisiana - - - - -	54,802	49,115	19,919	20,904
East Florida - - - - -	272	190	178	92
West Florida - - - - -	341			
Total - - - - -	765,098	804,947	81,526	83,073

[For statement A No. 6, showing the quantity of American and foreign tonnage employed in the foreign trade of the United States for the year ending on the 30th September, 1821, see American State Papers, Class Commerce and Navigation, page 605, et seq.]

C No. 1.—The periodical progress of our export trade is exhibited by the following statements, viz :

Total value of the exports from the United States in 1795 - - - - -	\$67,064,097
Total value of the exports from the United States in 1790 - - - - -	19,012,041
Increase in five years - - - - -	\$48,052,056
Total value of the exports from the United States in 1800 - - - - -	94,115,925
Increase in ten years - - - - -	\$75,103,884
Total value of the exports from the United States in 1805 - - - - -	101,536,963
Increase in fifteen years - - - - -	\$82,524,922
Total value of the exports from the United States in 1806, when they arrived at the maximum - - - - -	108,343,150
Increase in sixteen years - - - - -	\$89,331,109
From 1795 to 1799, both inclusive - - - - -	\$32,822,965
From 1800 to 1804, both inclusive - - - - -	42,048,366
From 1805 to 1809, both inclusive - - - - -	34,631,848
From 1810 to 1814, both inclusive - - - - -	30,618,196

The above statement shows the annual value of the domestic articles exported from the United States for several periods, each consisting of five years; the result is founded on the average of the five years which constitute each of the periods.

Commercial Intercourse with Foreign Nations.

C No. 2.

A statement showing the estimated value of the domestic and foreign merchandise annually exported from the United States to foreign countries

YEARS.	Articles the growth, produce, or manufacture of the United States.	Articles the growth, produce, or manufacture of foreign countries, re-expt'd.	Total value of the exports from the United States.
From 1st August, 1789, to 30th Sept., 1790,	-	-	\$20,205,156
From 1st October, 1790, to 30th Sept., 1791,	-	-	19,012,041
Do. 1791, do. 1792,	-	-	20,753,098
Do. 1792, do. 1793,	-	-	26,109,572
Do. 1793, do. 1794,	-	-	33,026,233
Do. 1794, do. 1795,	-	-	47,989,472
Do. 1795, do. 1796,	\$40,764,097	\$26,300,000	67,064,097
Do. 1796, do. 1797,	29,850,206	27,000,000	56,850,206
Do. 1797, do. 1798,	28,527,097	33,000,000	61,527,097
Do. 1798, do. 1799,	33,142,522	45,523,000	78,665,522
Do. 1799, do. 1800,	31,840,903	39,130,877	70,971,780
Do. 1800, do. 1801,	47,473,204	46,642,721	94,115,925
Do. 1801, do. 1802,	36,708,189	35,774,971	72,483,160
Do. 1802, do. 1803,	42,205,961	13,594,072	55,800,033
Do. 1803, do. 1804,	41,467,477	36,231,597	77,699,074
Do. 1804, do. 1805,	42,387,002	53,179,019	95,566,021
Do. 1805, do. 1806,	41,253,727	60,283,236	101,536,963
Do. 1806, do. 1807,	48,699,592	59,643,558	108,343,150
Do. 1807, do. 1808,	9,433,546	12,997,414	22,430,960
Do. 1808, do. 1809,	31,405,702	20,797,531	52,203,233
Do. 1809, do. 1810,	42,366,675	24,391,295	66,757,970
Do. 1810, do. 1811,	45,294,043	16,022,790	61,316,833
Do. 1811, do. 1812,	30,032,109	8,495,127	38,527,236
Do. 1812, do. 1813,	25,008,152	2,847,845	27,855,997
Do. 1813, do. 1814,	6,782,272	145,169	6,927,441
Do. 1814, do. 1815,	45,974,403	6,583,350	52,557,753
Do. 1815, do. 1816,	64,781,896	17,138,556	81,920,452
Do. 1816, do. 1817,	68,313,500	19,358,069	87,671,569

Commercial Intercourse with Foreign Nations.

C No. 3.—Statement of the value of goods, wares, and merchandise exported from the United States, commencing October 1, 1818, and ending September 30, 1821.									
	1819.			1820.			1821.		
	Domestic produce.	Foreign produce.	Total.	Domestic produce.	Foreign produce.	Total.	Domestic produce.	Foreign produce.	Total.
EUROPE.									
Russia -	\$143,752	\$485,869	\$629,621	\$159,851	\$1,222,470	\$1,382,321	\$127,939	\$500,955	\$628,894
Prussia -	43,627	265	43,892	4,839	-	4,839	-	-	-
Sweden -	98,881	11,267	110,148	85,878	11,354	97,232	154,213	62,968	217,181
Denmark and Norway -	77,375	26,074	103,449	83,560	154,694	238,254	165,568	360,535	526,103
Holland -	2,174,310	1,961,634	4,135,944	3,950,102	2,949,929	6,900,031	1,954,513	1,739,692	3,694,205
England, Man, and Berwick -	18,772,224	1,351,823	20,124,047	20,327,475	293,719	20,621,194	16,339,109	2,125,594	18,464,703
Scotland -	2,329,393	22,490	2,351,883	1,794,741	16,830	1,811,571	1,405,448	13,683	1,419,131
Ireland -	1,051,881	6,756	1,058,637	1,143,406	7,387	1,150,793	889,577	4,069	893,646
Guernsey, Jersey, Sark, and Alderney -	11,520	-	11,520	-	-	-	-	-	-
Gibraltar -	806,159	1,350,168	2,156,327	809,043	710,649	1,519,692	956,171	513,635	1,469,806
The Hanse towns and ports of Germany -	1,985,412	1,543,760	3,529,172	1,714,196	877,079	2,591,275	1,535,506	597,038	2,132,544
French European ports on the Atlantic -	6,358,542	1,966,637	8,325,179	5,180,266	1,494,932	6,675,198	5,098,843	349,010	5,447,853
French European ports on the Mediterranean -	253,957	762,912	1,016,869	281,623	639,922	921,545	69,855	10,851	80,706
Spanish European ports on the Atlantic -	517,664	161,995	679,659	249,468	68,408	317,876	324,706	189,900	514,606
Spanish European ports on the Mediterranean -	54,168	74,059	128,227	30,785	49,918	80,703	24,225	915	25,140
Portugal -	555,798	-	555,798	83,031	-	83,031	147,726	66	147,792
Fayal and the other Azores -	7,102	10,759	17,861	29,697	-	29,697	26,837	11,158	37,995
Italy -	108,373	1,007,338	1,115,711	77,117	1,134,073	1,211,190	410,111	689,496	1,099,607
Trieste, and other Austrian ports on the Adriatic -	15,146	245,303	260,449	30,788	556,794	587,582	31,781	308,580	340,361
Europe generally -	180,951	47,352	227,703	379,694	585,930	965,024	183,854	10,782	194,636
Total	\$35,545,635	11,036,461	46,582,096	36,415,560	10,776,101	47,191,661	29,845,982	7,488,927	37,334,909
ASIA.									
Dutch East Indies -	34,510	38,619	73,129	56,104	179,963	236,067	133,010	1,581,803	1,714,813
British East Indies -	24,914	100,631	125,545	5,740	10,630	16,370	32,089	1,934,190	1,966,279
French East Indies -	-	-	-	-	21,037	21,037	5,784	1,784	7,568
Manilla -	-	-	-	992	7,914	8,906	1,359	209,964	211,323
Turkey, Levant, &c. -	4,025	129,883	133,908	31,369	661,817	693,186	30,883	406,997	437,880
China -	74,896	1,512,076	1,586,972	231,932	1,247,769	1,479,701	388,535	3,902,025	4,290,560
Asia generally -	61,195	511,725	572,920	51,485	11,942	63,427	32,467	1,180,797	1,213,264
AFRICA.									
Bourbon and Mauritius -	35,848	22,795	58,643	-	-	-	19,600	22,556	42,156
Teneriffe and the other Canaries -	59,554	48,524	108,078	76,638	61,637	138,275	74,828	48,637	123,465
Madeira -	320,675	8,559	329,234	223,928	7,773	231,701	193,414	26,667	220,081
Cape de Verd islands -	34,892	64,069	98,961	33,905	42,880	76,785	22,176	7,656	29,832
Morocco and Barbary States -	1,372	6,895	8,267	190	4,381	4,571	-	-	-
Africa, generally -	73,386	57,778	131,164	49,212	37,125	86,337	85,062	41,629	126,691
Total	\$725,267	2,501,554	3,226,821	761,495	2,294,868	3,056,363	1,019,207	9,364,705	10,383,912

Commercial Intercourse with Foreign Nations.

STATEMENT—Continued.

	1819.			1820.			1821.		
	Domestic produce.	Foreign produce.	Total.	Domestic produce.	Foreign produce.	Total.	Domestic produce.	Foreign produce.	Total.
WEST INDIES, &c.									
Swedish West Indies -	\$345,793	\$98,194	\$443,987	\$450,015	\$99,619	\$549,634	\$507,077	\$53,149	\$560,226
Danish West Indies -	1,120,857	816,426	1,937,283	1,589,519	541,865	2,231,384	1,316,296	485,483	1,801,779
Dutch West Indies -	490,568	130,473	621,041	431,600	120,638	552,238	533,259	149,784	683,043
British West Indies -	843,312	1,726	845,038	877,415	11,079	888,494	264,632	470	265,102
British American colonies -	3,068,635	107	3,068,742	2,885,801	-	2,885,801	2,009,336	455	2,009,791
French West Indies -	1,460,375	180,935	1,641,510	1,265,939	227,496	1,493,435	846,597	49,838	896,435
Florida -	151,464	47,186	198,650	107,924	24,207	132,131	300,248	49,522	349,770
Honduras, Campeachy, &c. -	102,755	390,807	493,562	82,092	94,959	177,051	99,895	106,830	206,725
Spanish West Indies -	3,653,195	3,053,675	6,706,860	3,553,111	2,673,164	6,226,275	3,633,448	2,153,788	5,787,236
Coast of Brazil -	1,032,377	229,349	1,261,726	667,501	224,995	892,496	885,348	496,412	1,381,760
Haiti -	383,870	178,425	562,295	525,921	118,437	644,358	1,740,383	530,218	2,270,601
West Indies, generally -	1,988,861	319,848	2,308,709	2,011,135	497,821	2,508,956	513,039	47,474	560,513
Uncertain -	63,684	180,517	244,201	58,612	202,780	261,392	157,147	325,433	482,580
Total -	\$14,705,936	5,627,663	20,333,604	14,506,585	4,937,060	19,443,645	12,806,705	4,448,856	17,255,541

[For C No. 4, being a statistical view of the commerce of the United States, exhibiting the value of articles of every description of imports from, and the value of articles of every description of exports to, each foreign country; also, the tonnage of American and foreign vessels arriving from and departing to each foreign country, and the tonnage belonging to each foreign Power employed in the commerce of the United States, for the year ending 30th September, 1821, see American State Papers, Class Commerce and Navigation, p. 603, et seq.]

Commercial Intercourse with Foreign Nations.

D No. 1.

Statement showing the quantity of sugar, coffee, molasses, and spirits from other materials than grain, imported into the United States during the year commencing on the 1st October, 1820, and ending on the 30th September, 1821.

	Pounds.
Total amount of sugar imported - - - - -	59,512,835
Of which amount 58,633,372 pounds were imported from the following places, viz:	
From Cuba - - - - -	35,817,455
Other Spanish West India islands - - - - -	4,871,516
Spanish South American colonies - - - - -	218,896
	40,907,867
Swedish West Indies - - - - -	995,683
Danish West Indies - - - - -	5,930,778
Dutch West Indies - - - - -	1,063,302
French West Indies - - - - -	662,577
British West Indies - - - - -	57,642
British American colonies - - - - -	276,989
	334,631
Hayti - - - - -	272,855
Coast of Brazil and other Portuguese American colonies - - - - -	2,425,150
China - - - - -	187,724
Manilla and Philippine islands - - - - -	1,896,842
Bourbon and Mauritius - - - - -	250,552
British East Indies - - - - -	3,705,411
Other places - - - - -	879,463
Total amount of coffee imported - - - - -	21,273,659
Of which amount only 159,674 pounds were imported from the following places, viz:	
From British East Indies - - - - -	141,457
British West Indies - - - - -	16,744
British American colonies - - - - -	1,473
	159,674
Total quantity of molasses imported - - - - -	Gallons.
	9,086,982
Of which quantity only 26,559 gallons were imported:	
From British West Indies - - - - -	12,230
British American colonies - - - - -	14,329
	26,559
Total quantity of spirits from other materials than grain imported - - - - -	3,165,974
Of which quantity only 113,483 gallons were imported:	
From British West Indies - - - - -	17,924
British American colonies - - - - -	93,489
Other British colonies - - - - -	2,070
	113,483
Total quantity of spirits from grain imported - - - - -	492,176
Of which quantity only 14,241 gallons were imported:	
From England, Man, and Berwick - - - - -	4,812
Scotland - - - - -	118
Ireland - - - - -	8,851
British American colonies - - - - -	460
	14,241

Commercial Intercourse with Foreign Nations.

E No. 1.—Abstract of goods, wares, and merchandise, of the growth, produce, and manufacture, of the United States, exported to the West Indies, commencing 1st of October, 1820, and ending the 30th September, 1821.

WHITHER EXPORTED.	FISH.				OIL.				SPERMACEI CAN- DLS.		WOOD.		
	Dried or smoked.	Value.	Pickled.		Value.	Sperma- ceti.	Value.	Whale & other fish.	Quan'ty.	Value.	Staves and hd'ng.	Shin- gles.	Boards, plank, scantlg.
			Bbls.	Kegs.									
Quintals.	Dollars.			Dollars.	Gallons.	Dolls.	Gallons.	Pounds.	Dollars.	Thousands of.		1000 ft.	
Swedish West Indies	8,305	20,591	4,425	224	14,223	300	265	3,061	5,729	2,304	584	4,820	3,175
Danish West Indies	15,437	40,199	11,021	187	37,729	1,447	1,215	5,667	30,912	12,414	994	5,241	3,647
Dutch West Indies	23,686	46,374	5,988	79	21,864	-	-	23,195	8,848	4,778	282	1,428	2,583
British West Indies	485	1,277	102	-	333	202	202	44,224	16,500	5,038	2,885	4,483	3,600
French West Indies	58,731	185,802	10,819	176	37,588	150	150	44,224	16,500	5,038	2,872	15,816	11,555
Hayti	27,928	75,334	17,908	13	60,530	193	90	11,827	4,403	21,265	40	8,704	5,094
Cuba	41,614	97,549	8,120	111	25,610	4,613	3,270	72,906	26,165	53,167	260	3,751	23,301
Spanish West Indies other than Cuba	5,477	13,076	3,531	67	11,747	-	-	1,816	646	1,238	40	1,139	2,298
West Indies generally	22,405	61,288	7,826	940	26,636	333	133	5,746	2,186	2,039	511	1,377	2,422
Total	204,018	541,490	69,740	1,797	236,270	7,238	5,325	168,442	248,569	101,493	8,468	46,759	57,675

WHITHER EXPORTED.	WOOD.				NAVAL STORES.				ASHES, POT AND PEARL.		Skins Beef Tallow		
	Hewn timber.	Value.	Other lumber.	Masts & spars.	Oak bark & and other dye.	All man- ufactures of.	Tar & Rosin & turpen- tine.	Value.	Qn'ty.	Value.	Skins and furs.	Beef.	Tallow
Tons.	Dollars.	Dollars.	Dollars.	Barrels.	Dollars.	Tons.	Dollars.	Dollars.	Bbls.	Lbs.			
Swedish West Indies	32	44,559	956	947	-	2,204	447	251	1,218	-	400	4,579	
Danish West Indies	71	59,878	7,117	791	42	8,134	942	307	2,433	18	2,160	5,208	2,064
Dutch West Indies	-	31,468	4,805	661	-	9,865	1,056	116	2,501	-	-	3,279	8,844
British West Indies	182	97,970	5,873	551	-	699	581	936	-	-	14	26	
French West Indies	581	162,708	16,178	1,301	-	24,833	1,247	104	2,080	-	1,932	9,865	4,449
Hayti	251	69,409	4,626	-	-	4,515	489	186	1,194	-	1,935	9,944	
Cuba	-	253,090	24,605	5,099	1,397	74,241	1,737	227	3,806	-	16,711	12,364	14,880
Spanish West Indies other than Cuba	-	22,337	1,515	-	-	2,429	253	20	583	-	51	832	
West Indies generally	47	35,171	5,723	5,856	-	3,276	240	17	591	-	495	3,118	1,013
Total	1,164	776,590	71,398	15,352	1,439	130,001	6,992	1,279	15,342	18	2,160	23,679	31,250

Commercial Intercourse with Foreign Nations.

ABSTRACT—Continued.

WHITHER EXPORTED.																		
	Horn'd cattle.	No. of	Value.	Butter.	Cheese.	Value.	Pork.	Hams and bacon.	Lard.	Hogs.	Value.	Horses.	Mules.	Value.	SHEEP.			
			Dollars.	Pounds.	Pounds.	Dollars.	Bbls.	Pounds.	No. of	Doll's.	No. of	Doll's.	Quant.	Value.				
Swedish West Indies	-	81	37,083	55,252	29,947	8,660	3,181	74,582	85,287	120	49,670	28	-	1,374	160	310		
Danish West Indies	-	1	40,281	69,384	64,341	12,447	4,447	95,506	256,035	583	97,416	132	-	9,350	55	110		
Dutch West Indies	-	35	26,455	64,311	24,044	10,127	2,080	39,896	65,799	80	32,168	28	-	1,590	43	78		
British West Indies	-	307	7,903	219	319	52	41	570	5,990	163	2,333	16	-	1,620	776	1,780		
French West Indies	-	333	85,488	16,330	2,162	2,257	2,379	75,501	69,979	862	41,222	294	26	16,939	776	1,352		
Hayti	-	-	77,702	105,823	153,162	23,761	19,408	176,740	576,206	-	287,121	5	-	470	-	-		
Cuba	-	50	96,834	218,344	122,021	34,036	8,509	581,154	2,398,259	2,970	419,330	87	47	11,317	674	1,518		
Spanish West Indies other than Cuba	-	-	6,945	19,498	19,195	3,985	754	28,364	71,102	-	19,555	-	-	-	-	-		
West Indies, generally	-	106	27,905	32,370	41,405	7,137	2,251	83,148	154,996	100	49,279	82	-	4,061	249	329		
Total	-	913	406,596	581,531	456,596	102,492	43,050	1,155,461	3,683,653	4,878	998,094	672	73	46,721	2,733	5,427		

WHITHER EXPORTED.																		
	WHEAT.	Quant.	Value.	FLOUR.		INDIAN CORN.		MEAL.			Rye, oats, and other small grain & pulse.	BISC'T OR SHIP BREAD.		POTATOES.				
			Doll's.	Quant.	Value.	Quant.	Value.	Indian.	Value.	Rye.		Quantity.	Value.	Quan.	Value.			
			Bush.	Barrels.	Dollars.	Bush's.	Dollars.	Bbls.	Dollars.	Bbls.		Dollars.	Bbls.	Kegs.	Bush.	Dolls.		
Swedish West Indies	-	-	37,136	154,871	55,983	22,519	16,401	44,378	639	1,494	2,682	2,806	1,621	8,217	4,101	1,573		
Danish West Indies	-	-	110,597	464,943	35,981	14,964	63,867	165,287	1,983	5,077	4,427	4,198	2,400	11,522	6,514	2,319		
Dutch West Indies	-	-	30,307	133,762	48,865	25,276	14,837	40,807	5,012	12,099	4,746	1,780	1,032	5,598	4,330	1,653		
British West Indies	-	2	13,357	54,857	80,908	28,863	5,028	11,163	563	1,352	3,445	6,543	6,862	25,630	5,948	1,517		
French West Indies	-	-	14,523	60,723	82,368	32,370	4,107	11,207	428	1,065	8,186	853	376	2,758	6,906	2,279		
Hayti	-	-	152,206	587,910	6,358	2,636	148	380	104	238	2,735	547	2,003	3,366	2,514	957		
Cuba	-	-	156,071	675,952	18,339	7,391	4,123	9,953	6	16	5,992	4,074	3,976	14,853	45,575	15,562		
Spanish West Indies other than Cuba	-	-	8,413	34,877	300	162	1,411	3,570	12	39	406	450	1,487	1,198	453			
West Indies, generally	-	-	18,165	80,646	20,171	9,094	5,112	16,260	435	1,206	2,312	1,491	1,122	4,751	4,723	1,452		
Total	-	2	540,775	2,248,541	349,273	143,275	115,034	303,005	9,182	22,586	34,931	22,800	19,842	78,192	81,809	27,765		

Commercial Intercourse with Foreign Nations.

ABSTRACT—Continued.

WHITHER EXPORTED.	APPLES.		RICE.		INDIGO.		Cotton.	Value.	TOBACCO.		HOFS.		WAX.													
	Quant'y.	Value.	Quant'y.	Value.	Quant'y.	Value.			Qu'ty.	Value.	Qu'ty.	Value.	Qu'ty.	Value.												
															Bushels.	Dollars.	T'ierces.	Dollars.	Pounds.	Dolls.	Hhds.	Dollars.	Lbs.	Dolls.	Lbs.	Dolls.
Swedish West Indies	2,180	1,226	362	6,036	-	-	300	40	147	9,687	-	-	132	79												
Danish West Indies	3,335	2,193	3,788	63,692	21	21	5,464	874	718	47,765	-	-	-	-												
Dutch West Indies	727	393	631	11,165	-	-	-	-	426	24,755	-	-	-	-												
British West Indies	1,708	884	290	4,363	-	-	-	-	75	5,348	-	-	-	-												
French West Indies	734	469	1,777	31,211	-	-	342	51	1,000	61,681	500	32	-	-												
Hayti	2,768	1,465	7,874	116,900	-	-	-	-	763	45,062	-	-	-	-												
Cuba	12,915	9,071	10,047	166,475	-	-	772,296	121,966	660	35,562	179	18	3,200	992												
Spanish West Indies other than Cuba,	691	523	438	7,009	-	-	-	-	93	6,130	-	-	-	-												
West Indies, generally	1,105	998	4,189	71,936	-	-	-	-	264	16,565	-	-	-	-												
Total	26,163	17,222	29,396	478,787	9	21	778,402	122,931	4,146	252,555	679	50	3,332	1,071												

WHITHER EXPORTED.	Household Furniture.		Hals.	Sad-dlery.	Beer, Porter, and Cider.		Spirits from grain.	Leath-er.	Boots.	Leather shoes.	Value.	Tallow candles.	Soap.	Value.																				
	Coaches and other carriages.	Dollars.			In casks.	Bot-tled.									Galls.	Doz's.	Gall's.	Dolls.	Lbs.	Pairs.	Dollars.	Pounds.	Dollars.											
Swedish West Indies	5,747	270	1,453	60	3,750	211	3,434	2,121	336	4,381	5,204	55,094	193,284	30,024																				
Danish West Indies	12,723	1,929	4,807	1,766	2,515	1,159	3,935	4,596	72	17,483	15,720	148,750	638,283	87,301																				
Dutch West Indies	2,485	205	1,493	105	460	140	1,385	763	41	3,381	3,880	65,509	123,346	23,550																				
British West Indies	833	-	67	-	30	12	250	102	4	280	218	180	1,767	217																				
French West Indies	1,143	500	603	-	-	177	797	738	6	1,224	817	27,329	38,587	8,648																				
Hayti	31,631	1,877	17,461	9,530	4,030	1,527	3,135	5,055	208	21,861	19,510	127,519	1,083,150	142,374																				
Cuba	63,610	4,846	27,520	26,031	9,586	7,272	26,832	29,914	705	105,090	135,860	718,066	528,857	179,793																				
Spanish W. Indies other than Cuba,	3,883	-	544	212	-	18	451	188	68	2,030	2,003	50,943	68,056	13,760																				
West Indies, generally	2,151	800	1,907	90	156	30	3,145	1,308	-	19,958	16,128	59,133	174,563	29,092																				
Total	124,206	10,427	55,855	37,794	20,527	10,546	43,364	44,885	1,440	175,688	199,340	1,252,523	2,849,893	514,999																				

Commercial Intercourse with Foreign Nations.

ABSTRACT—Continued.

WHITHER EXPORTED.										IRON.					
	Snuff.	Tobacco manuf'd	Value.	Linsed oil.	Spirits of turpen'e.	CABLES AND CORDAGE.		LEAD.		Bar.	Nails.	Value.	Castings.	Manuf'rs of iron, & steel.	
						Qu'y.	Value.	Qu'ty.	Value.						
	Pounds.	Doll's.	Gallons.	Doll's.		Cwt.	Doll's	Lbs.	Doll's.	Tons.	Lbs.	Dollars.			
Swedish West Indies	13	33,949	2,777	550	711	46	616	285	28	-	13,068	1,050	396	1,085	
Danish West Indies	2,368	151,040	13,367	1,152	879	34	500	-	-	-	11,475	844	450	598	
Dutch West Indies	-	172,743	17,666	313	160	331	3,739	-	-	-	500	50	-	598	
British West Indies	-	2,995	227	-	-	-	-	-	-	-	1,821	146	-	200	
French West Indies	-	383	55,656	5,776	720	4	73	-	-	-	5,010	399	-	450	
Havti	-	5,197	28,381	4,019	1,397	82	1,088	330	17	-	100,255	8,295	-	1,831	
Cuba	-	3,789	31,901	4,769	2,136	310	3,702	6,000	405	3	692,916	48,237	-	7,760	
Spanish West Indies other than Cuba	-	-	50,212	6,318	101	2	22	-	-	-	11,435	888	-	177	
West Indies, generally	84	26,708	2,811	67	160	-	-	-	-	-	11,190	976	-	56	
Total	11,844	552,585	57,760	4,994	6,201	809	9,740	6,615	450	3	847,670	60,885	7,494	12,157	
										Merchandise and all articles not enumer'd.		Value.			
										Medicinal drugs.	Copper and brass, and cop' per manuf'd.	Raw pro-duce.	In Ame'n vessels.	In for'ign vessels.	Total to each country.
										Gunpowder.	Qu'ty.	Value.	Dollars.		
										Chocolate.	Qu'ty.	Value.	Dollars.		
										Sugar Refined.	Qu'ty.	Value.	Dollars.		
										Spirits from molasses.	Qu'ty.	Value.	Doll's.		
										Qu'ty.	Value.	Doll's.	Lbs.	Doll's.	
										Gall's.	Doll's.	Lbs.	Doll's.		
Swedish West Indies	260	95	364	62	-	1,075	199	150	1,274	9,798	4,479	495,564	9,810	505,374	
Danish West Indies	788	272	1,341	245	84	10,275	2,146	537	1,356	32,351	11,510	1,297,603	16,830	1,314,433	
Dutch West Indies	154	46	-	-	-	1,200	453	-	1,262	11,229	3,472	846,597	12,974	533,259	
British West Indies	-	-	-	-	-	-	-	-	-	351	3,354	264,632	-	264,632	
French West Indies	5,102	1,721	200	32	326	5,550	813	-	90	4,212	6,669	520,285	-	846,597	
Havti	1,603	598	4,500	749	80	11,755	2,495	2,987	7,356	58,284	9,261	1,701,839	18,544	1,720,383	
Cuba	2,971	1,537	-	-	-	95,697	18,726	7,728	17,386	123,676	28,692	2,878,373	71,682	2,950,055	
Spanish W. Indies other than Cuba	545	248	792	154	-	250	83	168	112	5,122	3,321	174,782	435	175,217	
West Indies generally	66	26	-	-	-	8,850	1,867	-	-	8,137	10,258	512,160	879	513,039	
Total	11,489	4,543	7,207	1,242	490	134,652	26,782	11,570	28,836	253,160	80,916	8,691,835	131,154	8,822,989	

WHITHER EXPORTED.										Value.				
	Spirits from molasses.	Qu'ty.	Value.	Sugar Refined.	Chocolate.		Gunpowder.	Copper and brass, and cop' per manuf'd.	Medicinal drugs.	Merchandise and all articles not enumer'd.	Value.			
					Qu'ty.	Value.						Manufac'd.	Raw pro-duce.	In Ame'n vessels.
Swedish West Indies	260	95	364	62	-	1,075	199	150	1,274	9,798	4,479	495,564	9,810	505,374
Danish West Indies	788	272	1,341	245	84	10,275	2,146	537	1,356	32,351	11,510	1,297,603	16,830	1,314,433
Dutch West Indies	154	46	-	-	-	1,200	453	-	1,262	11,229	3,472	846,597	12,974	533,259
British West Indies	-	-	-	-	-	-	-	-	-	351	3,354	264,632	-	264,632
French West Indies	5,102	1,721	200	32	326	5,550	813	-	90	4,212	6,669	520,285	-	846,597
Havti	1,603	598	4,500	749	80	11,755	2,495	2,987	7,356	58,284	9,261	1,701,839	18,544	1,720,383
Cuba	2,971	1,537	-	-	-	95,697	18,726	7,728	17,386	123,676	28,692	2,878,373	71,682	2,950,055
Spanish W. Indies other than Cuba	545	248	792	154	-	250	83	168	112	5,122	3,321	174,782	435	175,217
West Indies generally	66	26	-	-	-	8,850	1,867	-	-	8,137	10,258	512,160	879	513,039
Total	11,489	4,543	7,207	1,242	490	134,652	26,782	11,570	28,836	253,160	80,916	8,691,835	131,154	8,822,989

Commercial Intercourse with Foreign Nations.

F No. 1.

Price of flour at Baltimore from July 1, 1802, to January 1, 1822.

1802.			1809.			1816.		
July	-	\$7 00	March	-	\$6 75	January	-	\$9 50
August	-	6 75	April	-	6 00	March	-	8 50
September	-	6 00	May	-	6 75	May	-	8 75
October	-	5 37½	June	-	6 50	June	-	9 25
November	-	6 00	July	-	6 25	August	-	10 00
December	-	6 12½	September	-	6 00	September	-	10 00
Average \$6 33 for 1802.			October	-	7 00	October	-	9 50
			Average \$6 43 for 1809.			December	-	12 50
						Average \$9 75 for 1816.		
1803.			1810.			1817.		
January	-	6 00	January	-	7 25	February	-	15 00
February	-	6 25	February	-	7 50	March	-	14 00
April	-	6 00	June	-	8 75	May	-	13 00
May	-	6 00	July	-	8 75	June	-	11 00
July	-	7 00	August	-	10 75	September	-	8 75
August	-	7 00	September	-	9 50	October	-	9 50
September	-	7 25	December	-	9 50	November	-	9 00
October	-	7 00	Average \$8 75 for 1810.			Average \$11 43 for 1817.		
November	-	7 25						
December	-	7 25						
Average \$6 70 for 1803.			1811.			1818.		
			January	-	10 00	January	-	9 50
			April	-	9 50	March	-	10 00
			May	-	10 50	April	-	9 50
			June	-	10 50	June	-	10 50
			August	-	8 75	July	-	10 50
			September	-	8 50	August	-	10 00
			November	-	9 00	September	-	9 25
			December	-	9 00	October	-	9 00
			Average \$9 38 for 1811.			November	-	9 75
						December	-	8 75
			1812.			Average \$10 50 for 1818.		
			January	-	9 75			
			February	-	10 00			
			June	-	7 50			
			August	-	7 50			
			September	-	8 25			
			October	-	10 00			
			November	-	10 50			
			December	-	10 00			
			Average \$9 14 for 1812.					
			1813.			1819.		
			January	-	10 50	July	-	6 00
			September	-	6 50	August	-	5 75
			October	-	6 75	September	-	6 00
			November	-	5 50	October	-	5 50
			December	-	7 00	November	-	6 00
			Average \$7 20 for 1813.			December	-	6 00
			1814.			Average \$5 83 for 1819.		
			January	-	6 75			
			May	-	8 00			
			Average \$7 37½ for 1814.					
			1815.			1820.		
			May	-	7 75	January	-	5 50
			July	-	8 75	July	-	4 50
			August	-	9 00	August	-	4 50
			September	-	9 50	September	-	4 50
			October	-	9 00	October	-	4 12½
			November	-	9 50	November	-	3 87½
			December	-	9 75	December	-	3 87½
			Average \$9 for 1815.			Average \$4 33 for 1820.		
			1816.					
			January	-	6 75			
			May	-	8 00			
			Average \$7 37½ for 1816.					
			1817.			1821.		
			January	-	6 75	April	-	3 75
			May	-	8 00	June	-	4 00
			August	-	9 00	August	-	5 00
			September	-	9 50	September	-	5 00
			October	-	9 00	October	-	7 00
			November	-	9 50	November	-	6 00
			December	-	9 75	December	-	6 00
			Average \$9 for 1817.			Average \$5 28 for 1821.		
			1818.					
			January	-	6 00			
			July	-	4 50			
			August	-	4 50			
			September	-	4 50			
			October	-	4 12½			
			November	-	3 87½			
			December	-	3 87½			
			Average \$4 33 for 1820.					
			1819.			1822.		
			January	-	6 75	January	-	6 00
			May	-	8 00			
			Average \$7 37½ for 1819.					
			1820.					
			January	-	6 75			
			May	-	8 00			
			August	-	9 00			
			September	-	9 50			
			October	-	9 00			
			November	-	9 50			
			December	-	9 75			
			Average \$9 for 1820.					
			1821.					
			January	-	6 75			
			May	-	8 00			
			August	-	9 00			
			September	-	9 50			
			October	-	9 00			
			November	-	9 50			
			December	-	9 75			
			Average \$9 for 1821.					
			1822.					
			January	-	6 00			

Brevet Rank in the Army.

B R E V E T R A N K .

[Communicated to the House of Representatives, March 7, 1822, by the chairman of the Committee on Military Affairs.]

DEPARTMENT OF WAR, Jan. 21, 1822.

SIR: Brevet Major Generals Scott and Gaines having presented their claims for brevet pay and emoluments, "as being on duty, and having commands according to their brevet rank," the case was submitted, by the direction of the President, for the decision of the Attorney General, a copy of whose official opinion I herewith transmit. His decision being favorable to the claim, under the existing laws and organization of the army, growing out of the late reduction, I have deemed it my duty to apprise the committee of the fact.

I have, &c. J. C. CALHOUN.

HON. WILLIAM EUSTIS,
Chairman Military Committee.

OFFICE OF ATTORNEY GEN. U. S.,
December 29, 1821.

SIR: I proceed, according to your request, to give you my opinion on the laws touching brevet pay, as they apply to the cases of Generals Scott and Gaines.

The act of Congress of the 6th July, 1812, "making further provision for the Army of the United States, and for other purposes," authorizes the President to confer brevet pay, in certain cases, "provided that nothing herein contained shall be so construed as to entitle officers, so brevetted, to any additional pay or emoluments, except when commanding separate posts, districts, or detachments, when they shall be entitled to, and receive, the same pay and emoluments to which officers of the same grades are now, or hereafter may be, allowed by law."

This act was passed *flagrante bello*, and was manifestly intended as a stimulus to enterprise in a struggle which it was foreseen would require all our strength. It received a liberal construction during the war, as it was proper it should do.

On the return of peace, the act of the third of March, 1815, "fixing the Military Peace Establishment of the United States," was passed. It provided, among other things, that there should be two Major Generals and four Brigadiers; and, on the subject of pay, it expressly provides "that the compensation, subsistence, and clothing of the officers, &c., composing the Military Peace Establishment, shall be the same as are prescribed by the act entitled 'An act fixing the Military Peace Establishment of the United States,' passed 16th of March, 1802, and the act entitled 'An act to raise, for a limited time, an additional military force,' passed 12th of April 1802; and that the Major Generals shall be entitled to the same compensation as is provided by an act entitled 'An act to raise an additional military force, passed 11th of January, 1812.'"

The three acts thus exclusively selected in give the rules and standard of compensation in the officers, &c., on the Peace Establishment recognise no

such thing as brevet rank, or brevet compensation. The act of 6th July, 1812, which alone recognised them, is not among the acts referred to as giving the rule of compensation. It is true it is not expressly repealed; but as to the matter of compensation, it was virtually repealed; it was at least rendered inoperative by its exclusion from the list of acts referred to as fixing the scale of compensation; for, in a case like this, "*expressio unius est exclusio alterius.*"

Such, however, was not the construction given to the act of the 3d March, 1815. The act of 6th July, 1812, was acted upon precisely in the same manner as if it had been among the acts referred to, as prescribing the compensation; separate posts and districts were created and multiplied, as if to open a wider theatre for its more extensive operation; and there were few, if any, brevets in the army which did not draw brevet pay. The practical effects of this construction may be illustrated by the single case of the generals. The law clearly contemplated that two officers only should receive the pay of Major General; it expressly separates them from the other officers by referring specifically to the act of 11th January, 1812, as fixing *their* compensation; but, by engrafting the brevet law of the 6th July, 1812, on the act of 3d March, 1815, the distinction between the brigadier and major generals was broken up; and we had six major generals in pay, instead of two, as the law, it seems to me, clearly contemplated. The construction, I think, was erroneous, but it was an error in favor of those who have deserved most highly of their country, in her hour of greatest peril and necessity.

The brevet law of the 6th July, 1812, being thus continued in practical operation after the return of peace, exactly as it had been during the war, the act of 16th of April, 1818, "regulating the pay and emoluments of brevet officers," was passed; by which it was enacted "that the officers of the army, who have brevet commissions, shall be entitled to, and receive, the pay and emoluments of their brevet rank when on duty, and having a command according to their brevet rank, and at no other time."

This law raises the question, what is a command according to brevet rank? Generals Gaines and Scott insist that the question can be answered only by a reference to the act of the 6th July, 1812, which alone designates what shall be considered as a brevet command, and declares it to consist in the command of a separate post, district, or detachment. But this was the construction already in practice, and, thus construed, the law was unnecessary. It is very manifest that the law was intended to alter something in the practice of the pay department, which Congress disapproved; but the construction for which these gentlemen contend would confirm the practice, and not alter it. It is true that, if we put aside the practice, and look at the laws by themselves, the construction for which these gentlemen contend has great force; for if the act of 1818 had been passed with reference only to the act of 1815, then, as the effect of the act of 1815 was, according to my construction,

Brevet Rank in the Army.

to destroy brevet rank and pay under the Peace Establishment, the act of 1818 must have been considered as designed to recognise and restore them, giving the pay whenever the rank existed, and referring for its exposition to the act of 1812, which was the sole creating and directing act upon the subject. Such, I acknowledge, was my own opinion while I considered, as from my situation I necessarily must, the laws as standing alone, and the act of 1818 as growing entirely and solely out of the act of 1815. Understanding, however, from your Department, that the practice was already precisely that which this construction would educe from the act of 1818, it becomes manifest that this latter act could not have grown out of the act of 1815, but out of the erroneous practice under that act which it was intended to correct and reform; and the act of 1818, thus construed with reference to the evil which it was intended to remedy, has, I think, been correctly expounded by the order of the 8th May, 1818, page 125 of the printed rules and regulations of the War Department, of the edition of 1820, to wit: "Brevet officers shall receive the pay and emoluments of their brevet commissions when they exercise command equal to their brevet rank; for example, a brevet captain must command a company; a brevet major and a brevet lieutenant colonel, a battalion; a brevet colonel, a regiment; a brevet brigadier general, a brigade; a brevet major general, a division." Brevet Major Generals Gaines and Scott did not, I understand, command divisions, and therefore, according to this opinion, were not entitled to the brevet pay of a major general under the act of 1818.

These gentlemen further insist that if the act of the 6th July 1812, is not to give the rule as to brevet rank and pay, and if we are to resort to the numerical force under the command of an officer to give his rank, still, by this criterion also, they were entitled to the rank, and, consequently, to the pay of their brevets, under the act of 1818; because, although their actual command was not equal to a full division, it was more than a brigade; that, in passing the limits of a brigade, it transcended their commission as brigadier generals, and called for a higher rank in the commander, which call could be satisfied only by their brevets of major general. This position considered with critical and technical rigor, is, perhaps, correct; but, in construing an act of Congress, we are to look to the intention of the law-makers; and there is nothing in the policy or language of the act to induce the belief that Congress were looking to any minute subdivision of the cases before them. The mischief intended to be remedied was the prodigal waste of the public money in the profuse allowance of brevet pay. The remedy to be applied was to restrict this allowance, 1st. To such officers as were actually on duty; 2d. To such whose commands *accorded with their brevet rank*. If these latter words are susceptible of two constructions, that construction must be preferred which will best advance the remedy and repress the mischief; and if the construction which is to produce this effect be, moreover, the most obvious sense of

the term, on every principle of statutory construction it must be preferred.

Now, I apprehend, if any one at all acquainted with the organization of an army were asked "what is the command of a brigadier?" The obvious answer would be "a brigade;" and so, if asked "what is the command of a major general?" The obvious answer would be "a division." And this, I apprehend, was the meaning of Congress in the words "having a command according to their brevet rank." Hence, in this view of the subject also, I apprehend that the order of the War Department of the 8th of May, 1818, before quoted, has correctly expounded the meaning of this act.

We come now to the act of the 2d March, 1821, "to reduce and fix the Military Peace Establishment of the United States." This act provides that the Peace Establishment shall be composed of four regiments of artillery, and seven regiments of infantry, with such officers of engineers, of ordnance, and of the staff, as are thereafter provided for. The act declares what officers belong to the Peace Establishment, and, among others, that there shall be one major general and two brigadier generals; and on the subject of pay, it is declared that the officers, &c., shall have the same rank, pay, and emoluments, as are provided in like cases by existing laws.

The President is required to arrange the officers and troops retained in the Peace Establishment, and he has made such an arrangement as has placed Generals Gaines and Scott at the head of more than four regiments each. By the same act Congress has adopted the System of General Regulations for the Army, compiled by Major General Scott; and by the 44th article, 2d paragraph (page 85) of these regulations, it is stated that two regiments shall constitute a brigade, and two brigades a division; so that, according to this arrangement, each of these gentlemen is now at the head of a corps exceeding the amount of a division. It is true that this section of the regulations is headed "Economy of an Army in Campaign," and the particular article under consideration contemplates the organization of troops in brigades, divisions, and army corps, on their arrival at the place appointed for rendezvous. Hence it may be said that this article furnishes no criterion of what constitutes a division in quarters. But I understand that, in this organization of troops into brigades and divisions, General Scott has proposed nothing new, but has merely proposed to give an authentic form to the pre-existing and well known distribution. That companies, regiments, brigades, and divisions, constitute an arrangement known in time of peace as well as in war, is manifest from the order of the Department of War of the 8th of May, 1818, founded on the act of the 16th of April, of the same year; and the act itself, which was passed in time of peace, must be considered as recognising the same arrangement, because it has been already shown that such is the only rational construction of the terms "having a command according to their brevet rank."

With such authority before us, it will not do to affirm that a "division" is a term of distribution known only in war, and wholly unknown in peace. I consider it as having been clearly within the contemplation of Congress when they passed the act of the 16th of April, 1818, and the order of the 8th of May, as being only a more distinct declaration of the same fact. I understand, too, from the military officers in the department, that four regiments were clearly and always considered as composing a division, before the adoption of General Scott's regulations, and consequently independent of their authority. This, however, is a question which you are much better qualified to decide than myself.

Assuming it for the present that each of these gentlemen is now at the head of a division, the question is, whether they are entitled to the pay of their brevet rank since they were placed in this situation. The question is extremely difficult. Looking at the act in a general view, it would seem to have been clearly the intention of Congress that the Government should be charged with the expense of one Major General only, and two brigadiers, and that no permanent arrangement which the President could make of the troops on the Peace Establishment should avail to defeat this purpose. This, however, is matter of inference from a general view of the policy of the law, which must yield to any express declaration of their purpose on the direct subject of pay; and on this subject they have expressly declared, as we have seen, that the rank and pay should be governed by the existing laws. Now, among the existing laws on the subject, is, that of the 16th of April, 1818, which recognises the brevets of the officers composing this establishment, and declares that they shall draw the pay of their brevets whenever they have a command according to their brevet rank, that is to say, (according to the correct exposition of this Department,) that those who hold the brevet of Major General shall draw the pay of that rank when they command divisions, which is the case here.

This conclusion seems to me to be forced upon us by this explicit provision on the subject of pay; and whether Congress foresaw this consequence or not, they seem to me to have rendered it impossible for us to avoid it by any fair process of reasoning. If, therefore, these gentlemen are in the command of divisions under the last arrangement, I think them entitled to the brevet pay of Major Generals from that period.

I have, &c.

WILLIAM WIRT.

Hon. J. C. CALHOUN, *Sec'y of War.*

TRANSACTIONS IN THE FLORIDAS UNDER GOVERNOR JACKSON.

[Communicated to the House, January 29, 1822.]

WASHINGTON, Jan. 22, 1822.

To the House of Representatives:

In compliance with the resolution of the 2d instant, I transmit a report of the Secretary of State,

with all the documents relating to the misunderstanding between Andrew Jackson, while acting as Governor of the Floridas, and Eligius Fromentin, judge of a court therein; and also of the correspondence between the Secretary of State and Minister Plenipotentiary of His Catholic Majesty on certain proceedings in that Territory, in execution of the powers vested in the Governor by the Executive, under the law of the last session, for carrying into effect the late treaty between the United States and Spain. Being always desirous to communicate to Congress, or to either House, all the information in the possession of the Executive, respecting any important interest of our Union, which may be communicated without real injury to our constituents, and which can rarely happen, except in negotiations pending with foreign Powers; and deeming it more consistent with the principles of our Government, in cases submitted to my discretion, as in the present instance, to hazard error by the freedom of the communication, rather than by withholding any portion of information belonging to the subject, I have thought proper to communicate every document comprised within this call.

JAMES MONROE.

DEPARTMENT OF STATE,

Washington, Jan. 28, 1822.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 2d instant, requesting the President of the United States to cause to be laid before that House such information as he may think proper to communicate in relation to any misunderstanding between Andrew Jackson, as Governor of the Floridas, and Eligius Fromentin, as judge of the court therein, and in relation to various other subjects connected with the occupation of the Floridas during the last year, has the honor of submitting to the President the papers containing the information required by that resolution.

JOHN Q. ADAMS.

List of documents transmitted to the House of Representatives with the Message of the President of the United States, of January 28, 1822.

Papers received from, and correspondence with, Governor Andrew Jackson.

I. Governor Jackson to the Secretary of State, August 26, 1821.

(Enclosures.)

No. 1. Mr. Brackenridge to Governor Jackson, August 21, 1821.

2. Governor Jackson to Messrs. Walton, Brackenridge, and Miller, August 21, 1821.

3. Messrs. Walton, Brackenridge, and Miller, to Governor Jackson, August 22, 1821.

4. Same to Sousa, August 21, 1821.

5. Mr. Sousa, to Messrs. Brackenridge, Walton, and Miller.

6. Messrs. Walton, Brackenridge, and Miller, to Mr. Sousa, August 22, 1821.

7. Governor Jackson to Messrs. Butler and Miller, August 22, 1821.

Transactions in Florida—General Jackson.

8. Return of Messrs. Butler and Miller, August 22, 1821.
9. Examination of Domingo Sousa, August 22, 1821.
10. Order to Colonel Brook, August 22, 1821.
11. Order to Lieut. Mountz, August 22, 1821.
12. Order to Colonel Butler and Dr. Bronaugh, August 22, 1821.
13. Report of Messrs. Butler and Bronaugh, August 22, 1821.
14. Memorandum referred to in above report, August 22, 1821.
15. Minutes of examination of Colonel Callava and Antoine Fullarat, August 22, 1821.
16. Order for the imprisonment of Domingo Sousa, Colonel Callava, and Antoine Fullarat, August 22, 1821.
17. Mr. Brackenridge to Governor Jackson, August 23, 1821.
18. Affidavit of M. Vidal, August 23, 1821.
19. Search warrant, August 23, 1821.
20. Return of Messrs. Walton, Miller, Shannon, and Brownjohn, August 23, 1821.
21. Order for discharge of Messrs. Callava, Sousa, and Fullarat, August 23, 1821.
22. Return of Captain Wager, August 24, 1821.
23. Mr. Brackenridge's receipt to Col. Walton, August 25, 1821.

EXECUTIVE PROCEEDINGS—including,

- No. 1. Writ of habeas corpus in the case of Callava, August 23, 1821.
2. Lieutenant Mountz to Governor Jackson, enclosing above, August 23, 1821.
3. Mr. Brackenridge to Governor Jackson, August 24, 1821.
4. Memorandum extracted from record book of Governor Jackson.

- II. Governor Jackson to the Secretary of State, September 30, 1821.

(Enclosures.)

- No. 1. Proclamation, September 29, 1821.
2. Judicial opinion, in two newspapers, (Floridian of 15th and 22d September.)

- III. Secretary of State to Governor Jackson, October 26, 1821.

(Enclosures.)

Secretary of State to Judge Fromentin, October 26, 1821.

Mr. Salmon's letter to the Secretary of State, of 6th October, 1821, with its enclosures, (which see.)

- IV. Governor Jackson to Secretary of State, November 13, 1821.

(Enclosures.)

- No. 1. Judge Fromentin to Governor Jackson, September 3, 1821.
2. Governor Jackson to Judge Fromentin, September 3, 1821.
3. Judge Fromentin to Governor Jackson, September 3, 1821.
4. Governor Jackson to Judge Fromentin, September 3, 1821.
5. Certificate of Dr. Bronaugh, September 3, 1821.
6. Certificate of Col. Butler, September 3, 1821.
7. Certificate of Mr. Rutledge, September 3, 1821.
8. Certificate of Lieutenant Donelson, November 12, 1821.

9. Executive proceedings.

- V. Papers left at the Department of State by Doctor Bronaugh.

No. 1. Lieutenant Mountz to Governor Jackson, September 24, 1821.

2. Captain Dade to same, September 25, 1821.

3. Affidavits of A. Scott, Jr., and J. C. Mitchell.

4. Affidavits of John Coppinger Connor, September 22, 1821.

- VI. Governor Jackson to the Secretary of State, September 22, 1821.

(Enclosures.)

No. 1. Affidavit of H. M. Brackenridge, Oct. 22, 1821.

2. Certificate of Mr. Hannum, Oct. 15, 1821.

3. Certificate of Miller, Shannon, and Nesbit, October 22, 1821.

- VII. Secretary of State to Governor Jackson, January 1, 1822.

I.—*General Jackson to Mr. Adams.*

PENSACOLA, August 26, 1821.

SIR: The enclosed documents will advise you of an occurrence painful to me, but unavoidably necessary, and dictated by the imperious rules of justice, to save the unprotected orphan from being ruined by the most cruel oppression, by the most corrupt and wicked combination I ever investigated.

In the re-establishment and resuscitation of the judiciary in West Florida, and from the various distribution of the judicial functions, I had indulged the hope that no cases would occur to compel me to exercise the judicial powers with which I was invested by my commission from the President.

I was well aware that much corruption existed in Spanish judicial proceedings, but still my mind was not prepared to expect such a scene of combined wickedness and corruption as has been brought to light by this investigation, and which the enclosed extracts, taken from the original documents or records, and certified by the alcalde of Pensacola, exhibit. They relate to the succession or estate of Nicolas Maria Vidal, who died in this place about the year 1807, having made his will, leaving persons in this country his heirs, but who, from that time to this day, have never received one cent of their inheritance. It was this case which gave rise to the proceedings alluded to, marked No. 1, and to which I beg leave to refer you.

The document No. 2 is an extract of the whole proceedings instituted by the heirs for the recovery of the testamentary papers and other documents relative to the estate of their deceased father, and for the recovery of which I was compelled to exercise my judicial functions, and to take the energetic measures I did; and which were well warranted by the laws of Spain as well as by those of the United States; and which alone could have preserved to the heirs of Vidal the evidence of their right of property. Without these records they would have been unable to compel the house of Innerarity & Forbes, the depositary and debtor of the estate, to do them right and

justice. This act of justice was due to them by every law, human and divine. By the second article of the late treaty with Spain this right was expressly guarantied, and, under that article, Col. Callava, as the Commissioner of Spain, was bound to deliver these documents, as the evidence of the right of property here, at the time of his surrendering the country, and with other papers which he did deliver.

It is clearly to be perceived that the influence of J. Innerarity prevented all the decrees of Callava, as well as of his predecessors, in favor of the heirs of Vidal, from being executed; thus exhibiting a judicial mockery without example. And by the influence and arts of this man, (and, as some have it, by his gold,) the final attempt was made secretly to carry away the papers relating to this large estate; by this means shielding Innerarity from all responsibility to the heirs, and enabling him to continue in undisturbed possession of property to a very large amount so unjustly, corruptly, and fraudulently obtained.

I have reason to believe that Callava would not have presumed to stand out in contempt of my order, but that he would have delivered the papers when first demanded, nay, that he would have directed Domingo Sousa to have done so, had he not been urged to this obstinate resistance by some of our American citizens, under the impression that I would not, nay, durst not, commit him for the contempt. This, added to the influence which Innerarity had over him, who was continually by his side, and, I am convinced, urging him to withhold the papers, from a belief that their production would unfold the villany practised, makes him responsible to the heirs, and destroys both his character and that of Callava. It was, no doubt, this conviction which caused him to make the involuntary exclamation, when my order was read to Colonel Callava by Colonel Butler, and when told, on his refusal to deliver the papers proven to be in his house, that he must appear before me, that "the die was cast." Yes, he said truly the die was cast; for he must have clearly seen that the arts, the influence, the wealth, the power of no individual, not even of Innerarity himself, could any longer obstruct the pure channels of justice.

I have to regret that the conduct of some of our officers on this occasion was highly reprehensible, and that in particular of Judge Fromentin unaccountable, indecorous, and unjustifiable. I have said indecorous, because, from an interview with him on the subject of his jurisdiction and powers under his commission and instructions, it was well understood that the former only extended over the revenue laws and the acts of Congress prohibiting the introduction of slaves. My commissions and instructions had been shown him, and he had acknowledged all other judicial powers to reside in the alcalde and in other judicial jurisdiction under me, as well as in those with which I was invested by the President. After this clear understanding between us, and his being instructed to aid me in the administration of the Government, to attempt thus to oppose me without even giving me notice,

or making inquiry into the nature and cause of my proceedings; to issue what he calls a writ of *habeas corpus*, without petition or affidavit, or oath of any kind, and that on the application of Innerarity and of some Spanish officers, (the former interested in the destruction of these papers,) was such an act of indecorum and contempt of my authority, and displayed such ignorance of his duty, to say the least of it, as caused me to notify him to appear before me, and show cause why he had attempted this improper interference with me in the exercise of my judicial powers. The time when the interference was made renders his conduct still more reprehensible; he did know that opposition by force had been threatened by Callava and his Spanish officers to my authority, aided, as they had a right to believe, by some of my officers. This, as you will discover, I put down, as it ought to have been; and the lecture I gave the judge when he came before me will, I trust, for the future, cause him to obey the spirit of his commission, aid in the execution of the laws and administration of the Government, instead of attempting to oppose me, under Spanish influence.

I enclose you a copy of the paper he calls a writ of *habeas corpus*. If the view of this paper does not furnish sufficient evidence of his incapacity for the office of a judge; if it be not sufficient to strike him from the roll of judges, I must say that ignorance of law is no objection against any one's holding a judicial station, however high and important. Judge Fromentin was represented to me to be no lawyer, but favorably spoken of as a man of literature; but I could not have formed such an idea of his want of legal knowledge as this transaction displays. I am, therefore, more inclined to ascribe his conduct to weakness than to any other cause.

You will perceive, from the whole of the proceedings, that energetic measures were unavoidable, that my authority was attempted to be set at naught, and my orders and decrees treated with contempt. I could not view Colonel Callava in any other light than that of a private individual, charged with violating the rights of others, and setting my authority at defiance. I could not distinguish him or his situation from that of Domingo Sousa, or of Fullarat, his steward. These, by Callava's orders, had treated my authority with contempt, and Callava had not the magnanimity to relieve them, by acknowledging the papers to be in his possession, even after positive proof was had of the fact that they were so. I did believe, and ever will believe, that just laws can make no distinction of privilege between the rich and the poor; and that when men of high standing attempt to trample upon the rights of the weak, they are the fittest objects for example and punishment. In general, the great can protect themselves; but the poor and humble require the arm and the shield of the law. Colonel Callava's powers having ceased here with the surrender of the country, it was only a display, and so considered by me, of pompous arrogance and ignorance, in his claiming the privileges of diplomacy, which, in fact, he never possessed; and his powers hav-

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ing ceased, his commission accomplished, the pretension which he set up was an insult to the weakest understanding. There are other and many complaints by the Spanish subjects, who remain here, of documents relating to private property being missing from the alcalde's office. If proof is had where they are, demands will be made, and I hope the precedent set will prevent the necessity of again exercising those painful measures to coerce their production. But, should such occur, I shall not shrink from my duty, however painful it may be to my feelings to exercise such authority for the security of those individuals, who, under the treaty, look to our Government for the protection of their rights.

I enclose a memorandum, marked No. 3, which ought to have accompanied my last communication to you, and which records an occurrence that took place after the closing of my despatches of the 30th of July, concluded the 14th instant, and at the moment of their departure. This communication I could not receive until the inventory of provisions, &c., agreeably to Callava's agreement, and the pledge of his secretary, with the proper receipt, was delivered.

Enclosed you will receive an abstract of my accounts up to the 14th of August. In the month of October you will receive the whole by the hands of Dr. J. C. Bronaugh, who has acted as my private secretary, with all the necessary vouchers for closing my accounts.

I have the honor to be, sir, with great consideration and respect, your most obedient servant,

ANDREW JACKSON,
Governor of the Floridas.

P. S. I send you a newspaper containing an ordinance "for the better regulation of the harbor of Pensacola," and another, "regulating the fees of justices of the peace;" both of which have been passed since my last communication, and, from my ill health and great press of business, I send you through the paper enclosed.

Documents relating to the arrest of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, enclosed in Governor Jackson's letter of the 26th of August, 1821.

No. 1.

From H. M. Brackenridge, Alcalde, to His Excellency the Governor.

PENSACOLA, August 21, 1821.

SIR: I learn, from the most satisfactory evidence, that a number of documents relating to estates in this place, and to suits instituted here, are in the possession of an individual named Sousa. These papers properly belong to this office, but were not included in the inventory delivered by the late Governor. Some of the circumstances attending the affair are of a very peculiar nature; but as the necessity of obtaining possession of the documents is urgent, I must defer making a report respecting them to some other period. At present, I must request your Excellency to authorize some

one to make a regular demand of the said documents, and to ascertain precisely what they are.

I am, &c.,

H. M. BRACKENRIDGE, *Alcalde.*

His Ex'cy Gen. A. JACKSON,
Governor of the Floridas

No. 2.

His Excellency the Governor to Messrs. Walton, Brackenridge, and Miller.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 21, 1821.

GENTLEMEN: Having been officially informed that there are a number of papers or documents in the possession of an individual of the name of Domingo Sousa, of a public nature, and which belong to the office of the alcalde of this town, although not delivered with the other documents relating to private property, you are hereby authorized and instructed to proceed to the dwelling of the said Domingo Sousa, and to make a demand of all such papers or documents as may be in his possession. In case the said Sousa should refuse to exhibit and deliver the same, you will immediately report the fact to me in writing.

ANDREW JACKSON,
Governor of the Floridas, &c.

GEORGE WALTON, *Sec'y of West Florida.*

H. M. BRACKENRIDGE, *Alcalde of Pensacola,*

JOHN MILLER, *Clerk County Court of Escambia.*

No. 3.

From the Commissioners, Messrs. Walton, Brackenridge, and Miller, to His Excellency the Governor.

PENSACOLA, August 22, 1821.

SIR: At an early hour yesterday morning we repaired to the dwelling of Domingo Sousa, and explained to him the object of our visit, and the authority with which we were clothed. He immediately produced two boxes containing papers, declaring that they belonged to the military tribunal, and to the revenue of Spain. On examining the said papers, it appeared that, with a few exceptions, they related to courts martial and to personal disputes between officers and soldiers, cognizable by the military tribunals. But the following papers we conceive to be of a very different nature: The proceedings relating to the estate of Nicholas Maria Vidal, formerly auditor of war of this province, and whose heirs reside in this place. They relate to property and claims in this country; and, whatever the Spanish law may be on the subject of the military privilege, by which the military courts have sole cognizance in all cases where persons of that profession are in any way interested, yet, in this case the persons now interested have nothing to do with the Spanish Government. Another package contains the papers in the case of Peter Guilkes against Tomas Villaseca, which relates to real property that has passed into other hands. There are also papers in the case of Manuel Bonfay against Carlos de Ville, relating to a lot of ground in Pensacola; also, the proceedings between Carlos de

Ville and Eugene Sierra, relating to real property here, and in which other parties are now interested. These are all the papers we conceive important to the inhabitants here, excepting some cases of admiralty jurisdiction, and one as late as 1819; but which appear to be principally copies, the originals having been sent to Havana.

After having examined the whole of the papers in the possession of the said Sousa, we made a demand of the foregoing, but he refused to deliver them, declaring that he was merely the servant of the late Governor Callava, who had placed them in his hands, and that, without an order from him, they could not be given up to us. We then made a formal demand, in writing, and which is annexed to this report; and the same evening we received his answer, hereto annexed.

We then prepared the annexed letter of the 22d, but, when presented to him by Colonel Miller and H. M. Brackenridge, he declined receiving it, stating that he had no control over the papers; that Colonel Callava was the person of whom they must be demanded; and, therefore, refused to receive any letter from them. He further stated, that he had communicated the demand to Colonel Callava, who told him to answer by simply stating that he was subordinate to his (Callava's) orders. He said that, in order to relieve himself from the responsibility of keeping the papers, he was about to deliver them to the late Governor.

GEORGE WALTON,
H. M. BRACKENRIDGE,
JOHN MILLER.

His Exc'y ANDREW JACKSON,

No. 4.

From Messrs Walton, Brackenridge, and Miller, to Mr. Sousa, referred to in the above report.

PENSACOLA, August 21, 1821.

SIR: We have this day been authorized and instructed by his Excellency Gen. Andrew Jackson, Governor of the Floridas, to require you to deliver up certain public documents, which no private individual has a right to keep, as they relate to the rights of persons holding or claiming property in this province. Among these papers, it is believed there are the documents relating to the estate of Don Nicolas Vidal, whose heirs are interested in the same; also the papers relating to a house and lot in Pensacola, which was the subject of a proceeding between Carlos de Ville and Eugene Sierra; also a proceeding between Manuel Bonfay, and Carlos de Ville, relating to a piece of ground in this place; and also the documents in the case of Peter Guilkes and Thomas Villaseca, relating to real property in Pensacola. In pursuance of our instructions, we therefore make a formal demand of the foregoing, and of all other papers which relate directly to the right of private property in West Florida, and in which the inhabitants thereof are interested.

GEORGE WALTON,
Secretary of West Florida.
H. M. BRACKENRIDGE,
JOHN MILLER.

DOMINGO SOUSA.

No. 5.

From Mr. Sousa to Messrs. Walton, Brackenridge, and Miller, also referred to in their report.

MESSRS. ALCALDE AND SECRETARIES: I am a Spanish officer, staying at present in Pensacola, and subject by my commission to the orders of the late Governor of this place, Don Jose Callava; consequently, I have not under my charge, in quality of a private individual of this town, any papers which I am bound to deliver to you in compliance with your request. It is a positive fact, that I have exercised the functions of assistant witness (*testigo de asistencia*) for the suits in the courts of war and revenue in Pensacola, and under the Spanish Government, and that there are in my safe-keeping, boxed up, some of those papers intrusted to my care by the above-named Governor for their preservation. This is all I have to communicate to you in answer to the letter which you have been pleased to address to me to-day.

God preserve you many years.

DOMINGO SOUSA.

A correct translation.

E. A. RUTLEDGE,
Tr. Spanish language.

No. 6.

From Messrs. Walton, Brackenridge, and Miller, to Mr. Sousa.

PENSACOLA, August 22, 1821.

SIR: Your note in reply to our demand of yesterday, has been received. You are in the exercise of no civil functions under the existing Government. We, therefore, can only regard you as a private person. We do not claim any papers in your possession, or in that of any other, relating to the military tribunals, or to the revenue of the Spanish Government; but we are certain that no individual, no matter what office he may have held under the Spanish Government, has any right to retain possession of archives or documents which relate directly to the sovereignty of this province; and no reason can be given why such papers as concern property in this country, and which may be necessary to establish titles or assert the rights of individuals, should be withheld from the officer now authorized to take charge of them.

We again make a positive demand of the papers mentioned in our note of yesterday, to wit: the documents in the case of Nicolas Maria Vidal; the proceedings between Carlos de Ville and Eugene Sierra; also, a proceeding between Manuel Bonfay and Carlos de Ville, and the documents in the case of Peter Guilkes and Tomas Villaseca. These papers are known to be in your possession, and we demand to know by whose authority, as no person whatever has any right to authorize you to detain them.

GEORGE WALTON,
H. M. BRACKENRIDGE,
JOHN MILLER.

Don DOMINGO SOUSA.

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NOTE.—This letter was handed to the above-named Domingo Sousa by the undersigned; and the said Sousa refused to receive the same.

H. M. BRACKENRIDGE.
JOHN MILLER.

No. 7.

From His Excellency the Governor to Messrs. Butler and Miller.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 22, 1821.

It being made known to me by the report of Colonel George Walton, Secretary of West Florida, H. M. Brackenridge, alcalde of the city of Pensacola, and Colonel John Miller, clerk of the county court for the county of Escambia, duly authorized and appointed by me to make demand of and to receive the following documents and archives, claimed to appertain and belong to the following persons, as evidence of their real and personal rights, which are guaranteed to them by and under the second article of the late treaty with Spain, and which are represented to be in the possession of Domingo Sousa, who states that these documents and papers have been placed in his charge and care by the late Governor of West Florida, Don Jose Callava, that is to say: First, the documents relating to the estate of Nicolas Maria Vidal; second, the documents in the proceedings between Carlos de Ville and Eugene Sierra; third, the documents in the case of Manuel Bonfay and Carlos de Ville; fourth, documents in the proceedings in the case of Peter Guilkes against Tomas Villaseca: Colonel Robert Butler, of the Army of the United States, and Colonel John Miller, clerk of the county [court] of Escambia, are hereby commanded, forthwith, to proceed to seize the body of the said Domingo Sousa, together with the said papers, and bring him and them before me, at my office, immediately, to the end that he then and there answer such interrogatories as may be put to him; and to comply with such order and decree touching the said documents and records as the rights of the individuals, secured to them by and under the second article of the treaty with Spain, concluded at Washington, 22d February, 1819, and ratified on the corresponding day of 1821, may require, and the justice of the case demand.

Given under my hand, at Pensacola, this 22d day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas, &c.

No. 8.

Return of Colonels Butler and Miller to the above.

PENSACOLA, August 22, 1821.

We have the honor to report, that we proceeded to the house of the within-named Domingo Sousa, and found that the papers referred had been by him taken, through the aid of a negro, (as he reports,) to the house of Don Jose Callava, late Governor.

The body of Domingo Sousa is herewith presented to you.

17th CON. 1st SESS.—73

We have the honor to be, very respectfully, your most obedient,

ROBERT BUTLER,
JOHN MILLER.

No. 9.

Examination of Domingo Sousa.

OFFICE OF THE EXECUTIVE OF FLORIDA,
PENSACOLA, August 22, 1821.

Present: His Excellency the Governor.

Question 1. Were you not in possession, on yesterday and this morning, of the following papers: that is to say, the documents relating to the estate of Nicolas Maria Vidal?

Answer. Yes.

Question 2. Had you, or had you not, in the same manner, at the same time, in your possession, the papers in the case of Carlos de Ville and Eugene Sierra, relative to property in this province?

Answer. Yes.

Question 3. Had you in your possession, in like manner and time, the proceedings in the case of Manuel Bonfay and Carlos de Ville, relating to property in this province?

Answer. Yes.

Question 4. Had you in your possession, in like manner and time, the proceedings in the case of Peter Guilkes against Tomas Villaseca, relating to property in Pensacola?

Answer. Yes.

Question 5. Whether the documents and papers in all the above cases do not relate to private property in this province?

Answer. That the estate of Vidal is at Baton Rouge, but that the heirs are here.

Question 6. Is not the case of Carlos de Ville and Eugene Sierra on the subject of a piece of ground in this place?

Answer. Yes.

Question 7. Is not the case of Bonfay and De Ville relative to a piece of ground in this place?

Answer. It relates to the same piece as that of De Ville and Sierra.

Question 8. Is not the case of Guilkes and Villaseca in relation to property in this place?

Answer. That the case related to a piece of property in Pensacola.

Question 9. When and by whom were these papers placed in your possession?

Answer. That those papers were placed in his possession at the time of the adoption of the constitution, when the civil functions were distributed to the alcalde; that this was better than a year ago.

Question 10. Did you ever act as civil alcalde in Pensacola?

Answer. No; that he was a clerk or witness *de asistencia*.

Question 11. Who was alcalde at the time of your obtaining possession of the papers?

Answer. Don Jose Norriega.

Question 12. Did not all papers appertaining to the rights of individuals, and relating to suits before the alcalde, belong to his office?

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Answer. Yes, all that were of a civil nature; and all such have been delivered, but not the military papers.

Question 13. At what time this morning were the papers which had been demanded of you delivered by you, to whose order, and through what channel?

Answer. That, after the demand had been made by Colonel Walton, the alcalde, and Colonel Miller, now present, he went to Colonel Callava, and stated that he wished to free himself from the responsibility of keeping them, and that he this morning, at eleven o'clock, had them carried to Governor Callava's house by a negro belonging to Manuel Domingo, and there delivered to Fullarat, the major domo of the Governor.

Question 14. When you wished to free yourself from the responsibility of keeping the papers, what was the reply of Governor Callava?

Answer. He said nothing.

Question 15. Do you know that Governor Callava received possession of the papers?

Answer. He does not know positively whether the Governor has received them or not; that he went with the negro, and the papers were left at the house. There was no person there but the major domo, in whose charge they were left.

D. SOUSA.

No. 10.

Order to Colonel Brooke.

PENSACOLA, August 22, 1821.

SIR: You will furnish an officer, sergeant, corporal, and twenty men, and direct the officer to call on me by half-past eight o'clock for orders. They will have their arms and accoutrements complete, with twelve rounds of ammunition.

Respectfully, your most obedient,

ANDREW JACKSON,

Governor of the Floridas, &c.

Col. GEORGE M. BROOKE,

Commanding 4th Infantry.

No. 11.

Order to Lieutenant Mountz.

PENSACOLA, August 22, 1821.

Should Colonel Callava and his steward refuse to deliver the documents which will be required of them by Colonel Butler and Doctor Bronaugh, and on the report of Colonel Butler to you of their refusal, you will immediately take the said Colonel Callava and his steward Fullarat into custody, and bring them before me, to answer such interrogatories as are required by the circumstances attending the case.

Very respectfully, your most obedient,

ANDREW JACKSON.

Lieutenant MOUNTZ, *Officer of the guards.*

No. 12.

Order to Colonel Butler and Doctor Bronaugh.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 22, 1821.

It being made known to me, by the confession of Domingo Sousa, that the papers named in the

petition of Henry M. Brackenridge, alcalde for the city of Pensacola, and which were demanded under my orders, as the property of private individuals, by Colonel George Walton, secretary for West Florida, Colonel John Miller, clerk of the country court of Escambia, and Henry M. Brackenridge, alcalde for the city of Pensacola, were, after said demand, in pursuance of my orders as aforesaid, was made, by the said Domingo Sousa and a negro man carried this day to the house of the late Governor, Don Jose Callava, and delivered the said documents and papers into the possession of his steward, named Fullarat:

Colonel Robert Butler, of the Army of the United States, and Doctor James C. Bronaugh, accompanied by Henry M. Brackenridge, Esq., alcalde for the city of Pensacola, will wait upon Colonel Don Jose Callava, and his steward, named Fullarat, and demand from them the following papers, this day delivered to the said Fullarat at the house of the said Colonel Callava, by the said Domingo Sousa, that is to say: 1st. The documents and papers relating to the estate of Nicolas Maria Vidal. 2d. The documents in the proceedings between Carlos de Ville and Eugene Sierra. 3d. The documents and papers in the case of Manuel Bonfay and Carlos de Ville. 4th. Documents and papers on the proceedings in the case of Peter Guilkes against Tomas Villaseca. All which documents and papers are acknowledged to be the property of individuals, and appertaining to their rights, and which are secured to them by and under the second article of the treaty with Spain, concluded at the city of Washington on the 22d day of February, 1819, and ratified on the corresponding day of 1821, and must remain for the protection of the rights and property of the said individuals; and no officer of Spain can rightfully take them away, or keep them from the office of the duly appointed alcalde for the city of Pensacola. It is further ordered, that if the said late Governor Don Jose Callava, or his steward Fullarat, when the above-described papers are demanded of them, should fail or refuse to deliver the same, that the said Don Jose Callava and his steward Fullarat be forthwith brought before me, at my office, then and there to answer such interrogatories as may be put to them of and concerning the premises, and to abide by and perform such order and decree touching the said documents and papers, (secured to them as aforesaid,) as the justice of the case may demand.

Given under my hand, at Pensacola, the 22d day of August, 1821.

ANDREW JACKSON,

Governor of the Floridas, &c.

To Colonel ROBERT BUTLER, of the Army of the United States, and Doctor JAMES C. BRONAUGH, in company with HENRY M. BRACKENRIDGE, to execute and return, and report thereon.

No. 13.

Report of Messrs. Butler and Bronaugh.

PENSACOLA, August 22, 1821.

SIR: Pursuant to your official order bearing this date, we proceeded to the house of Colonel

Transactions in Florida—General Jackson.

Callava, who was absent; but, again returning to his house shortly after, we found him, accompanied by a number of Spanish officers clothed with their side arms, and Mr. John Innerarity, in the porch. The demand was formally made of the documents enumerated in your order, and peremptorily refused; when he was informed that his refusal would be considered as setting at defiance the authority exercised by you as Governor of the Floridas, in the execution of the laws; and they were again demanded, and the consequences of refusal on his part enumerated, but in which refusal he still persisted; and we were about taking our leave to prepare for the final execution of your order, when Colonel Callava declared that if we would furnish him with a copy of the memorandum, setting forth the documents required, he would deliver them to us; to which we assented.

The alcalde, H. M. Brackenridge, accordingly waited on him with a copy of the memorandum herewith accompanied, and informed him that he would call in two hours for the reception of the documents, as promised. We proceeded at the appointed time, and found the gate and front part of the house closed. The former were opened by removing a bar, and, on reaching the latter, a considerable stir seemed to be making in the house. We knocked several times without receiving any answer, when admittance was demanded in the name of the Governor in three instances; still without reply. The guard was then ordered to advance and form in front of the house, and part detached to the rear, when it was discovered that the back door was open, and several Spanish officers, with Mr. Innerarity, (who is one of your cabildo,) were in the porch. We inquired for Colonel Callava, to which we were answered they did not know where he was. Lights were procured and the rooms searched, when Colonel Callava was found in his bed, divested of his coat. Demand was then made of the documents, agreeably to his promise, and to our astonishment they were still refused, and several attempts made on his part to show that he was not amenable to the laws; to which he was answered that the Governor was, in the execution of the laws, bound to demand the papers, as they appertained to the rights and property of individuals resident in Pensacola, and that formal complaint had been made that they were improperly withheld, and that the Governor knew no distinction between Colonel Callava and any other man under his Government. We then proposed that Colonel Callava should deliver the papers, and he should have our receipt for them; which was also refused. We then again demanded them, reiterating our sentiments that his refusal would be viewed as an act of open mutiny to the civil authority exercised in the Floridas, and that he must expect the consequences. He persisted to refuse, and the officer of the guard was ordered to take him and his steward Fullarat into custody, and bring them before your Excellency; which is now done. We would add, in conclusion, that Colonel Callava repeatedly asserted that he would not be taken out of his house alive, but he seemed to act with-

out much difficulty when the guard was ordered to prime and load. A corporal and three men were detached to remain and guard the house of Colonel Callava, and to prevent the removal of the boxes which had contained the documents, and which Mr. Brackenridge recognised in the bed-room. From the relation in which Mr. Innerarity stands in this business, together with the interest taken on the side of Colonel Callava, and at the same time exercising the functions of one of the cabildo of this city, we deem it an indispensable duty to recommend that your Excellency will fill his place in the council with a character who will manifest a proper respect for the dignity of the laws and you their Executive.

We have the honor to be, &c.

R. BUTLER, *Col. U. S. Army.*
J. C. BRONAUGH.

HIS EX'CY A. JACKSON,
Governor of the Floridas, &c.

No. 14.

Memorandum referred to in the above report.

PENSACOLA, August 22, 1821.

Memorandum of the documents which have this day been demanded of Colonel Jose Callava, agreeably to the order of his Excellency Major General Jackson, Governor of the Floridas, and which, on the demand of Colonel Robert Butler and J. C. Bronaugh, accompanied by H. M. Brackenridge, Colonel Callava promised to deliver to Colonel Butler, if they should be found in the boxes delivered to him by Domingo Sousa.

1. The papers relating to the estate of Jose Maria Vidal.
2. Proceedings in the case of Carlos de Ville and Eugene Sierra.
3. Proceedings in the case of Manuel Bonfay and Carlos de Ville.
4. Documents in the case of Peter Guilkes and Tomas Villaseca.

The whole of the above papers having relation to the rights of property in West Florida, and in which private individuals are interested.

H. M. BRACKENRIDGE,
Alcalde.

No. 15.

Minutes of the examination of Colonel Callava and Fullarat.

OFFICE OF THE EXECUTIVE OF FLORIDA,
Pensacola, August 22, 1821.

Colonel Jose Callava being brought before Andrew Jackson, Governor of the Floridas, to answer certain interrogatories relative to documents and papers named in a schedule bearing this date, and which relate to the property and sovereignty of the Floridas, the following interrogatories were put to him, viz:

Question 1. Were or were not, the papers mentioned in a schedule handed to you by H. M. Brackenridge, alcalde of the city of Pensacola, delivered by Domingo Sousa at your house, this day, to Antoine Fullarat, your major domo; and, if so, at what time of the day?

Transactions in Florida—General Jackson.

Answer. Dixo que yo protesto solemnemente contra el acto, que son las diez y media de la noche, sacandole de sue cama, donde se hallaba enfermo; que se acopla como comisario, Española que es por el Gobierno Español, baxo el tratado recientemente celebrado con dicho Gobierno y el de los Estados Unidos por la cesion de las Floridas, cuya comision me ha sido confiado—here the Governor stopped Colonel Callava, and directed the following question to be put to him:

Did, or did not, Domingo Sousa deliver at your house this day the papers above mentioned; and, if so, where are those papers now? and answer this directly.

Answer. That he declines answering, except in the manner he considers proper, in his own language, and with his own hand.

The question being repeated, he answered that he was here as a commissioner, and could not answer in any other capacity. On which he was informed by the Governor that he could not view him as a commissioner, or in any other light than as a private individual, charged with refusing to surrender papers which belong to the public archives of this province, and of being connected with individuals charged with being about to secrete papers, and to carry them out of the country; by which the inhabitants thereof would be deprived of their evidence of property, and which, under the second article of the treaty with Spain, ought to have been delivered with the other papers placed in the charge of the alcalde for safe-keeping. The question being again repeated, he refused to answer except in the manner before stated.

Interrogatories put to Antoine Fullarat.

Question 1. What is your name and age.

Answer. My name is Antoine Fullarat; I do not know my age.

Question 2. Did not Domingo Sousa deliver to you this day some papers in boxes at the house of Colonel Jose Callava? Answer. Yes.

Question 3. Where are those papers now?

Answer. They are at the house of Colonel Callava.

Question 4. In whose possession are they?

Answer. They are in Colonel Callava's house.

Question 5. At what time of this day were they delivered by Domingo Sousa?

Answer. He does not recollect.

Question 6. Are not you the major domo of Colonel Callava? Answer. Yes.

I do hereby certify the foregoing to be a correct minute examination before Andrew Jackson, Governor of the Floridas, at which I acted as clerk and interpreter.

H. M. BRACKENRIDGE.

No. 16.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 22, 1822.

WEST FLORIDA, Pensacola, ss.

To the officer of the day:

You will take into custody and safely keep Domingo Sousa, until he produces, or causes to be

produced and delivered, unto Henry M. Brackenridge, alcalde of Pensacola, the following documents and papers, to wit: Those relating to the estate of Don Nicolas Maria Vidal; also, the papers relating to a house and lot in Pensacola, which was the subject of a proceeding between Carlos de Ville and Eugene Sierra; also, the proceedings which took place between Manuel Bonfay and Carlos de Ville, relating to a piece of ground in this place; and, also, the documents in the case of Peter Guilkes and Tomas Villaseca, relating to real property in Pensacola; all which documents and papers appear to appertain to individuals and their rights, and for their benefit ought to be in the possession of Henry M. Brackenridge, alcalde for the city of Pensacola, and not to be taken away by the officers of Spain; and which documents and papers were seen by Colonel George Walton, Colonel John Miller, and Henry M. Brackenridge, alcalde, in the possession of the said Domingo Sousa, on the 21st instant, and demanded by the said alcalde to be delivered to him, the said alcalde, under the written order of the undersigned, given for that purpose, and the said documents and papers to be retained by the said alcalde for safe keeping: on which the said Domingo Sousa refused to deliver the same, but, in open violation of the above-recited order and demand, did convey the said documents and papers to the house of Colonel Jose Callava, late Spanish Governor of the province of West Florida, and left them in the hands of the said Colonel Callava's steward, by name Fullarat, in the dwelling-house of the said Colonel Callava. All which acts aforesaid of the said Domingo Sousa are in open contempt of the authority of the undersigned, as Governor of the Floridas, &c., and in open violation of the rights of the citizens, secured to them under the second article of the late treaty with Spain; for all which, and until he, the said Domingo Sousa, complies with the foregoing order, by delivering the aforesaid enumerated documents and papers, he is to stand committed to the calaboose.

Given under my hand this twenty-second day of August, eighteen hundred and twenty-one.

ANDREW JACKSON,

Governor of the Floridas, &c.

WEST FLORIDA, Pensacola, ss.

To Captain Dade, officer of the day.

You will take into custody and safely keep Colonel Don Jose Callava, and his steward Fullarat, until the documents and papers recited in the order annexed for the arrest of Domingo Sousa are produced and delivered unto Henry M. Brackenridge, alcalde of the city of Pensacola.

Given under my hand, this twenty-second day of August, eighteen hundred and twenty-one.

ANDREW JACKSON,

No. 17.

H. M. Brackenridge, Alcalde, to His Excellency the Governor.

PENSACOLA, August 23, 1821.

SIR: Having strong grounds to believe that the documents and papers claimed by me as appertain-

ing to the archives of this province, and directly relating to the property and sovereignty of the same, are now in the house of Don Jose Callava, but enclosed in boxes, I beg leave to request that authority may be given to such persons as your Excellency may appoint to open and examine the said boxes and report thereon. From the examination of Domingo Sousa and Antoine Fullarat, and the affidavit hereto annexed of Mercedes Vidal, there can be no doubt but that said documents were delivered in the boxes before mentioned to the said Callava, at his house, and are in his possession.

The documents demanded are as follows:

1. Papers relating to the estate of Nicholas Maria Vidal.
2. Proceedings in the case of Carlos de Ville and Eugene Sierra.
3. Proceedings in the case of Manuel Bonfay and Carlos de Ville.
4. Documents in the case of Peter Guilkes and Thomas Villaseca.

H. M. BRACKENRIDGE, *Alcalde*.

No. 18.

Affidavit of Mercedes Vidal.

WEST FLORIDA.

Before me, H. M. Brackenridge, *alcalde* of the city of Pensacola, personally appeared Mercedes Vidal Padro, who, being of full age, and being duly sworn, deposeth and saith, that her father, Nicholas Maria Vidal, left her by will one of his heirs, and that he died about the year 1806, possessed of a large real and personal estate in Florida and Louisiana. The deponent further saith, that the will of her said father, together with the inventories of his real and personal estate, and all the papers relating thereto, were for several years missing from the public archives of Pensacola, having been by some person withdrawn from the same; that repeated solicitations were made by her to the authorities then existing here to compel the restoration of the said papers and documents, as they were, and she believes, still are, necessary to enable her to prosecute her claims under the said will; that a certain John Innerarity of this place, whom this deponent believes to be a debtor to the said estate in a large amount, was decreed to restore the said papers in his possession; that the said papers were finally restored, and that a decree was passed against the said Innerarity to account with the deponent as one of the heirs of Nicolas Maria Vidal. The deponent further states that, a few days before the change of Governments, she demanded them of Colonel Callava, who informed her that he could not give them up, as he was obliged to take them to Havana. The deponent afterwards requested permission to make a copy of them; that this was granted by said Callava on condition that they should only be delivered by separate pieces or parcels, and that a confidential person should be found to copy them; but the deponent says that the expense of copying them exceed her means, as they amount, in all, to several hundred pages of writing paper. The

deponent afterwards learned that the said papers were in the actual possession of Domingo Sousa, who acknowledged the same, and delivered three pieces to her for the purpose of being copied. The deponent further states that the said papers relate to property in this country and Louisiana, and were necessary in order to enable her to prosecute her claims under the will of her father.

MERCEDES VIDAL.

Sworn and subscribed before me this 23d day of August, 1821.

H. M. BRACKENRIDGE, *Alcalde*.

No. 19.

Search Warrant.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 23, 1821.

WEST FLORIDA, *Pensacola, ss.*

Agreeably to the petition of H. M. Brackenridge, *alcalde* for the city of Pensacola, hereto annexed, and the affidavit of Mercedes Vidal, relating that she has reason to believe, from what Colonel Jose Callava has told her, that those papers would be taken to Havana: and whereas Domingo Sousa, in his declaration before me, the undersigned, on the 22d instant, declared that he, the said Domingo Sousa, in open violation and contempt of my order requiring that he should deliver the documents and papers named in the annexed petition of H. M. Brackenridge, *alcalde* for the city of Pensacola, had delivered them to Antoine Fullarat, the steward of Colonel Jose Callava, and in the house of the said Callava: and whereas an order was issued by the undersigned, on said declaration of the said Domingo Sousa, that a demand should be made to Colonel Jose Callava, and his steward Fullarat, that they deliver said papers, agreeably to a schedule delivered by Colonel Robert Butler, of the Army of the United States, and Dr. J. C. Bronaugh, accompanied by the said *alcalde* for the city of Pensacola, who proceeded and made a demand of the aforesaid papers, which Colonel Callava refused to deliver, on which an order was made to bring the said Callava and Fullarat before me to answer such interrogatories as might be put to them, &c.: This order being executed, and the said parties before me, Colonel Callava having declined answering interrogatories put to him, except in his own way, and as commissioner of Spain for the delivery of West Florida and its dependencies, which the undersigned would not in his judicial capacity, nor could he, know him in any other than his individual capacity, brought before him on the complaint of his acts being injurious to the rights and property of individuals, and in open violation of the orders of the undersigned, and in contempt of his decrees. Fullarat, being interrogated, declared that he received from Domingo Sousa the papers alluded to, and that the said papers in boxes were in Colonel Callava's house:

Colonel George Walton, Secretary of West Florida, Colonel John Miller, clerk of the county court of Escambia, David Shannon, Esq., presi-

ding justice of said court, and Thomas Brownjohn, Esq., accompanied by Henry M. Brackenridge, Esq., alcalde of the city of Pensacola, will forthwith proceed to the house of Colonel Jose Callava, and make search for said papers, breaking open said boxes; and if said papers, as mentioned in the annexed petition, are found therein, to take the same and bring them to the undersigned with this warrant, leaving all other papers in said boxes secured in the same way as the said boxes are found, and report to me, in writing, how they have executed this warrant.

Given under my hand and private seal, (there being no seal of office,) at Pensacola, in West Florida, the twenty-third day of August, eighteen hundred and twenty-one.

ANDREW JACKSON,
Governor of the Floridas, &c.

No. 20.

Return of Messrs. Walton, Miller, Shannon, and Brownjohn to the above.

PENSACOLA, August 23, 1821.

In the execution of the above order, we, the undersigned, proceeded to the dwelling of Colonel Callava, and, having opened a box containing papers, found the documents enumerated in the above list; and, after taking them out, again closed the said box, placing a seal upon the same. We now deliver into your Excellency's possession the papers and documents as before enumerated.

GEORGE WALTON,
Secretary of West Florida.

JOHN MILLER,
D. SHANNON,
T. BROWNJOHN.

His Ex'cy Gen. A. JACKSON,
Governor of the Floridas, &c.

No. 21.

Order for the discharge of Colonel Callava, Domingo Sousa, and Antoine Fullarat.

OFFICE OF THE EXECUTIVE OF FLORIDA,
Pensacola, August 23, 1821.

WEST FLORIDA, Pensacola, ss:

Application being made to the undersigned this 23d day of August, 1821, by H. M. Brackenridge, alcalde for the city of Pensacola, by petition founded upon the affidavit of Mercedes Vidal, of the 23d of August, 1821, and on the declaration of Domingo Sousa and Antoine Fullarat, steward of Colonel Callava, that the first had delivered, and the latter received, at the house of Colonel Jose Callava, the papers found at the house of Domingo Sousa, and by the order of the undersigned commanded to be delivered, for the use of the individuals whose rights are involved and concerned, into the hands and possession of H. M. Brackenridge, Esq., alcalde for the city of Pensacola, for safe keeping, and that said papers were in the boxes as above delivered, and in the house of said Callava; and information being made to me by report of Colonel Robert Butler, Dr. J. C. Branaugh, and the said H. M. Brackenridge, alcalde

as aforesaid, that the said boxes were seen in the house of the said Callava on the evening of the 22d instant; and it being stated by the affidavit of Mercedes Vidal that the papers were about to be taken to Havana, and a warrant prayed to make search for the same; and whereas the said warrant was granted to Colonel George Walton, Secretary of West Florida, Colonel John Miller, clerk of the court for the county of Escambia, David Shannon, Esq., president of said court, and Thomas Brownjohn, Esq., accompanied by H. M. Brackenridge, alcalde for the city of Pensacola, to execute, and report in what manner they had executed the same, who made the following report thereon: "In the execution of the above order, we, the undersigned, proceeded to the dwelling of Colonel Callava, and, having opened a box containing papers, found the documents enumerated in the above list, [which accompanied the warrant,] and, after taking them out, again closed the said box, placing a seal upon the same. We now deliver into your Excellency's possession the papers and documents, as before enumerated. Pensacola, August 23, 1821. George Walton, Secretary of West Florida, D. Shannon, T. Brownjohn. Addressed to his Excellency Andrew Jackson, Governor of the Floridas, &c." Whereupon, the undersigned ordered that said papers be and remain in the possession of Colonel George Walton, Secretary of West Florida, and by him to be delivered over to H. M. Brackenridge, alcalde for the city of Pensacola, for safe keeping, taking his receipt for the same:

The officer of the day over the guards of Pensacola (Captain Wager) will therefore discharge Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, Colonel Callava's steward, from the custody of the guard, make known to them that the papers (for the non-delivery of which, and contempt of the orders of the undersigned, they were confined) are in my custody, to be handed over to H. M. Brackenridge, Esq., alcalde for the city of Pensacola, for safe keeping, for the benefit of the individuals and their rights that may be concerned; making them subject to such costs as the said H. M. Brackenridge, alcalde for the city of Pensacola, may tax against them. Then conduct Colonel Callava to his house, examine if the two boxes of papers remain sealed, leave him in possession of them, dismiss the guards from his house, and report the same to the undersigned with this order.

Given under my hand, at Pensacola, this twenty-third day of August, eighteen hundred and twenty-one.

ANDREW JACKSON,
Governor of the Floridas, &c.

No. 22.

Return of Captain Wager to the above.

PENSACOLA, August 24, 1821.

SIR: I have the honor to report that your order of yesterday, directing the release of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, has been complied with.

Transactions in Florida—General Jackson.

Immediately on the receipt of said order, I repaired to the guard at the calaboose; and, having communicated its contents to Colonel Jose Callava, I conducted him to his own house, where I examined two sealed boxes, said to contain papers. I further attended him in the examination of his own effects, with the safety of which he appeared satisfied. I then dismissed the guard from his house, and left him in peaceful possession of it.

I have the honor to be, &c.

P. WAGER,

Capt. 4th Inf., and officer of the day.

His Exc'y ANDREW JACKSON,
Governor of Florida.

No. 23.

H. M. Brackenridge's (alcalde) receipt to Colonel Walton for the documents above mentioned.

PENSACOLA, August 25, 1821.

Received of George Walton, Esq., Secretary of West Florida, the following documents belonging to the archives of this province, being the same obtained through proceedings instituted at my instance:

1. The papers in the case of Vidal.
2. In the case of Bonfay and Carlos de Ville.
3. In the case of Carlos de Ville and Sierra.
4. In the case of Peter Guilkes and Villaseca.

H. M. BRACKENRIDGE,
Alcalde for the city of Pensacola.

A copy from the originals on file in my office.

GEORGE WALTON,
Secretary of West Florida.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 23, 1821.

Present, his Excellency the Governor:

The order for the discharge of Domingo Sousa, Colonel Jose Callava, and Antoine Fullarat, being under the consideration of his Excellency, having been written, but not yet issued, Captain Wager, the officer of the day, presented to his Excellency the following documents, to wit:

No. 1.

The United States to Lieutenant Mountz, of the 4th regiment of United States infantry, greeting:

You are hereby commanded that you forthwith have the body of Jose Callava, late Governor of the province of West Florida, now in your custody, as is said, together with the day and cause of his caption and detention, by whatever name he may be known, before the judge of the court of the United States for West Florida, and for that part of East Florida which lies westward of the cape, at his chambers, in the city of Pensacola, to do, receive, and submit to whatsoever the said judge shall consider in that behalf; and have you then and there this writ, with your doings thereon.

Witness, Eligius Fromentin, judge of our said

court, this twenty-third day of August, in the year of our Lord eighteen hundred and twenty-one.

I allow this writ.

ELIGIUS FROMENTIN,
Judge of the U. S. for West Florida, &c.

[ENDORSED.]

I allow the writ on the other side.

ELIGIUS FROMENTIN,
Judge of the U. S. for West Florida, &c.

No. 2.

From Lieutenant Mountz to his Excellency the Governor.

PENSACOLA, W. F., Aug. 24, 1821.

SIR: I have the honor to state that the within paper from Judge Fromentin was handed to and served upon me, as officer of the guard stationed at the calaboose, on the 23d instant, by a person who I have reason to believe was Doctor Brosnham, of this place, who stated that he served it as a friend, and who, on being informed that no notice would be taken of the within paper, retired. Very respectfully, I have the honor to be, &c.,

G. W. MOUNTZ,
Lieut. 4th reg. U. S. Infantry.

His Exc'y ANDREW JACKSON,
Governor of the Floridas, &c.

The within paper was handed, immediately on its receipt, to Captain Wager, officer of the day.

G. W. MOUNTZ,
Lieut. U. S. Army.

Whereupon, it is ordered by his Excellency that Captain Wager report to Mr. Fromentin that the prisoners were confined for an open contempt of his Excellency's orders and decrees, and that he would keep them confined agreeably thereto, until released by the orders of his Excellency the Governor. And his Excellency issued the following further order, viz:

Eligius Fromentin, Esq., will forthwith be and appear before me, to show cause why he has attempted to interfere with my authority as Governor of the Floridas, exercising the powers of the Captain General and Intendant of the island of Cuba over the said provinces, and of the Governors of said provinces, respectively, in my judicial capacity as supreme judge over the same, and as chancellor thereof, having committed certain individuals charged with a combination to secrete, and with having attempted to secrete and carry out of the territories ceded to the United States the evidence of individual right to property within the said territories, which has been secured to each individual under the second article of the late treaty with Spain, and in open contempt of the orders and decrees made by me. And that the said Eligius Fromentin, Esq., be and appear before me, at my office, at five o'clock P. M., in Pensacola, to make known the above cause, and to abide by and perform such order and decree as the undersigned may of right deem proper to make of and concerning the same.

Transactions in Florida—General Jackson.

Given under my hand, at Pensacola, this 23d day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas, &c.

To Colonel GEORGE WALTON, Secretary of West Florida, to make known and execute the above, and to furnish a copy of the above, (if required,) returning this original, and in writing making known how he has executed the same.

To which order, Colonel George Walton, Secretary of West Florida, made the following return, viz:

By virtue of the above order, I have summoned Eligius Fromentin, Esq., personally to appear at the office of his Excellency Major General Andrew Jackson, at five o'clock this afternoon, and, at his request, have furnished the said Eligius Fromentin with a copy of the above order, certified under my hand, as Secretary of West Florida; and the said Eligius Fromentin, in answer to the said summons, declared his perfect willingness to obey this and every order of his Excellency the Governor; but asserts that he is unable, through indisposition, to attend this afternoon, as above he is required.

GEORGE WALTON,
Secretary of West Florida.

Whereupon, it is ordered by his Excellency that further time, until to-morrow afternoon at three o'clock, be given to the said Eligius Fromentin to appear and show cause as above he is commanded.

OFFICE OF THE EXECUTIVE OF FLORIDA,
Pensacola, August 24, 1821.

Present, his Excellency the Governor:

Judge Fromentin, in obedience to the order of his Excellency, appears, and acknowledges that he granted the writ of habeas corpus without the affidavit of any person, and that no affidavit was made before him; and that it was granted upon the verbal application of a number of individuals who made the application, (named Le Rud, Innerarity, Brosnaham, and Father Coleman;) and, upon being asked to whom he delivered the said writ of habeas corpus to be served upon the officer who had in custody Colonel Callava, he replied that he delivered it to one of the persons who made application for it, but to which he does not know.

ELIGIUS FROMENTIN.

The word *verbal* interlined in the original by Judge Fromentin.

GEORGE WALTON,
Secretary of West Florida.

Whereupon, his Excellency the Governor ordered that the said Eligius Fromentin be dismissed without day, &c.

A copy from the originals on file in my office.

GEORGE WALTON,
Secretary of West Florida.

[Enclosure No. 2, in Governor Jackson's letter of 26th August, 1821.—2 in 1.]

Mr. Brackenridge to Governor Jackson.

PENSACOLA, August 24, 1821.

SIR: The following are the facts supporting my application to your Excellency in relation to papers which, as alcalde, and specially commissioned keeper of the archives delivered in virtue of the treaty with Spain, I conceived ought to be placed in my charge, and which no individual had a right to retain:

Shortly after my appointment, an application was made to me by a free quadroon woman of this place, who stated that she was one of the heirs of Nicolas Maria Vidal, formerly the auditor de guerra, or judge. She placed in my hands a number of original papers and decrees, which evidently could not be properly retained by any individual, but belonged to the archives. These papers were retained by me. On examining them, I found that they principally consisted of petitions on the part of the heirs of Vidal, praying the interposition of the existing authorities to compel John Innerarity to restore to the archives the papers relating to the estate of their deceased father, so as to enable them to substantiate their claims against the said Innerarity. These were followed by repeated decrees, but without effect—at least from aught that appears in their proceedings. From others of these documents, it would appear that they had been restored; various decrees in favor of the heirs had passed; but, since July, 1820, nothing seems to have been done, in consequence, as I have been informed, of the departure of the auditor, or judge. I did not find the papers in the office, and I did not know, until afterwards informed by Mercedes Vidal, where they were. As they related to property in this country, and were necessary for the establishment of the rights of its inhabitants, it seemed to me self-evident that they could only be lawfully in the possession of the Government, and that they might be taken wherever they could be found. About ten days ago, Mercedes Vidal informed me that they were in the hands of one Domingo Sousa, formerly a clerk in the office, but that they were under the control of the late Governor Callava, who had given her permission to copy them; but, as they consisted, like other Spanish documents, of the original papers stitched together, and were in separate pieces or unbound books, she could only be allowed to take one of them at a time. I told her to obtain one of them, and bring it to me, in order that I might be certain of the fact. As soon as this was done, and being well convinced of the truth of her story, I made my application to you of the 21st of August, conceiving that the papers must be restored, as no individual could possess them without the permission of the existing Government.

From the following abstract of the proceedings instituted by the heirs of Vidal for the restoration of those papers to the archives, your Excellency will perceive with how much difficulty this object was obtained. On the 29th of August, 1817, a petition was presented to the Governor by Caro-

line Vidal, one of the heirs of Nicolas Maria Vidal, setting forth that, since the sale of her deceased father's effects at public auction, she was unacquainted with the situation of his estate, and praying that the papers relating to it might be delivered to her for this purpose, on her giving the proper receipt. On this, there is a decree by Mazot, then Governor, dated 1st of September, 1817, ordering the papers to be delivered to her, under her receipt. There then follows a certificate from the clerks, or witnesses *de asistencia*, of their having waited on John Innerarity to demand the said papers, and that they were informed by his bookkeeper that he was at the river Perdido. The demand is made, it is said, in virtue of their having been delivered to him by the deceased Governor Zuniga.

On the 3d of the same month they again proceeded to the house of Innerarity, who repaired to the auditor's office, and prayed that eight or ten days might be allowed him, that he might search for them, as he did not know with certainty where his bookkeeper had put them at the time of the prevailing reports that this place was about to be surprised by the insurgents. This appears to have been granted.

The next petition of Caroline Vidal is dated 1st of December, 1817, stating that, notwithstanding the various solicitations on her part for the delivery to her of the proceedings following the decease of her father, so that, by a sight of them, she might know what is justly due to her, without which she would not be able to do so, she again prays that they may be delivered to her on giving a receipt; and, if not in the public archives, that it be certified in whose possession they were. On this a decree was entered by Mazot, again requiring Innerarity to deliver the testamentary acts of Nicolas Maria Vidal. The clerk accordingly made the demand of Innerarity, who replied that he had not been able to find them, but believed that they had been sent to Mobile in a trunk, with other papers, about the time this place was threatened by the insurgents, and, if in his possession at all, they were at that place; but he was not certain whether he had not returned them to Don Francisco Gutierrez de Arroyo.

The next petition of Caroline Vidal is dated the 28th of February, 1818, renewing her demand for the delivery of the testamentary papers, or acts of her father, enumerating the different evasive answers of Innerarity, and praying that if, in fact, they had been transmitted from Mobile to Havana by Arroyo, they might be reclaimed from the Intendant. This prayer is granted by Mazot, but does not appear to have produced any effect.

After this follows a petition by Mercedes Vidal, co-heiress of Nicolas Maria Vidal, setting forth the solicitations of her sister to compel Innerarity to restore the testamentary papers of her deceased father, in consequence of whose failure to do so the heirs had not been able to claim their rights under the will of their father. The petition contains these words: "If a private individual could be authorized to take away from the public archives papers of the greatest importance, and then

excuse himself on the ground that they had been delivered to Peter or to John, and thus escape without any further trouble, nothing would be secure, and the laws of justice and society would be overturned;" and then praying that Innerarity be required, for the last time, to restore the papers, and that he be put in close confinement until he shall deliver the papers necessary to substantiate claims under an estate which, until now, the heirs thereof have been unable to make. Then follows the decree of Governor Callava, dated 31st of March, 1819, that the petition pass to the auditor, that the proper order be taken thereon. Upon this, by order of the 5th of April, 1819, Innerarity is required to restore the papers, if in his possession; but this also appears to have been without effect.

The next petition of Mercedes Vidal prays that the following interrogatories may be put to Innerarity:

1st. Whether he is the depositary of the estate of the deceased Nicolas Maria Vidal, the petitioner's father?

2d. Whether sixteen thousand acres of land in the district of Baton Rouge were sold at public sale at that place, and for what price?

3d. Whether the executor named in due form by the said Nicolas Maria Vidal, Cristoval de Annas, protested against the sale as a nullity, and in derogation of the rights of the heirs?

4th. Whether, when the sixteen thousand acres were adjudged at public sale, Cristoval de Annas did not demand the preference in behalf of the minors?

5th. To whom did John Innerarity give an account of the deposite placed in his hands?

6th. For what reason did Innerarity take away the testamentary papers and inventories, and other papers belonging to the succession of the said Nicolas Maria Vidal; and if, on taking them out, he gave a receipt; and by whose order they were given?

Then follows the order of Callava, dated 17th May, 1819, that the petition pass to the assessor. On the 18th, there is the further order of Callava that John Innerarity appear at the office of the auditor, at eleven o'clock of that day, to answer to such interrogatories as should be put to him touching the premises. He accordingly appeared, and said that, in the possession of neither the keeper of the archives, nor of any other person, is there a receipt showing in whose hands the documents claimed then were. If, in other proceedings, he had declared that he would look for them among his papers, it was from a belief that he had seen them in the possession of Francisco Arroyo, who used to come frequently to his house. That they might have been mingled with some of his own papers, and on that account he offered to make search for them among those in his house, as he had formerly done as to those he had at Mobile; but, not having found them, he hoped this would be considered sufficient. This is also accompanied by a formal writing from Innerarity, in the nature of a demurrer, setting forth that, under the laws of Castile, he is not bound to an-

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swer; as no litigant can, according to those laws, begin by propounding questions to the opposite party; that proofs should be brought against him, instead of compelling him to furnish evidence against himself. Then follows an order of Callava that it pass to the assessor. An order is then given to examine the book of receipts, to see to whom the papers were delivered; on which the clerks certify that, on examination of the book of receipts from 1813 until the time of making the search, no receipt could be found. This application does not appear to have been effectual.

The next paper is a petition of considerable length by Mercedes Vidal, setting forth the manner in which the heirs of Vidal had for four years been kept out of their inheritance, in consequence of which they had been reduced to extreme poverty; the injustice they had experienced in the fraudulent sale of their estate in the district of Baton Rouge; and their unavailing efforts to obtain the testamentary papers of their deceased father, or to compel those to account who had their property in their hands. Upon this petition there is a decree of the auditor de guerra of the 25th of June, 1819, annulling, on legal grounds, the sale of the property at Baton Rouge, and decreeing that the heirs be put in possession thereof, signed by Governor Callava; and, in pursuance of this decree, it is certified by the clerks that they have delivered the original of this proceeding, in order that it may be carried into effect; on which follows a writing addressed by Callava to the judges of the district of Baton Rouge, stating that the sale of the estate of Vidal, in that district, to the prejudice of the interests of minors, has been set aside; but, as his jurisdiction does not extend there, he sends the original proceedings had in his tribunal, in order that the decrees therein may be carried into effect, dated the 26th of June, 1819. From none of the foregoing proceedings does it appear that the testamentary papers had at this time been returned.

The next document in order is the petition of Mercedes Vidal, setting forth her repeated solicitations, and those of her sister; the continued evasions of Innerarity; his perseverance in refusing to deliver up the testamentary papers of her deceased father; that, at length, forced by her continued petitions, and those of her sister, he had surrendered said papers, to all appearances complete. That, from positive data, on the inspection of those documents, it appeared that they were entitled to have certain specified proceedings under the will set aside as irregular and fraudulent; that property to a large amount, which had been left on deposit in the Ursuline convent in New Orleans, had been seized by Forbes and Innerarity, and that no account had been rendered by them of the same; that a large sum of money had been placed in deposit in their hands, for which they had not accounted. The prayer of the petitioner is, that the proceedings under the will be annulled; that the house of Forbes and Innerarity be required to account, &c.

The decree of the auditor, Suares, follows at considerable length, declaring that the proceed-

ings under the will had been wholly irregular, and formed a confused mixture of one thing and another, a perfect labyrinth, which could only be ascribed to the malice of some persons, and the want of a litrado, or legal judge, to direct the parties. The irregularities are then detailed at large. The auditor then sets forth that, in order to avoid confusion, there should be two separate proceedings: one with respect to the demand of the heirs to annul what had been done under the will; and the other requiring the house of Forbes and Innerarity to account with the heirs. The first to consist of the former proceeding and this decree, and the documents on which they are founded, to be separated from the rest of the proceedings for this purpose; that, before proceeding to the annulling of the sale of the sixteen thousand acres of land at Baton Rouge, it would be proper to hear the party at whose instance the sale had been made, that is to say, Don John Forbes & Co., which company is at present represented by John Innerarity; and that the proceedings, with the previous instances in the name of the heirs, should be communicated to the latter. As to the account demanded of Innerarity, and which had been demanded of him ever since the year 1810, without ever having been obeyed, he is required within ten days to produce the same, exact and in due form, and, on failure thereof, to be subjected to what in such case would be exacted by justice; and that within the fifth day he place in the royal treasury the sums put in his possession in the character of a depositary, together with the sixteen hundred dollars mentioned in page sixty-five of the proceedings. The foregoing dictamen or decree is ordered to be carried into effect in all its parts. Signed Callava, 1st July, 1820.

The next and last petition of Mercedes Vidal sets forth the foregoing decree; that the time for the accomplishment of the same had elapsed; that nothing had been done by Innerarity to comply therewith. She therefore prays that execution may issue against the goods of Innerarity, to compel him to comply with the said decree; that, until the rights of the petitioner can be established, and until he shall exhibit an account of the effects sold in New Orleans, as expressed in the Governor's decree of the 1st of July, the property of said Innerarity be placed under an interdict. On this follows the decree of Callava of the 10th of July, 1820, granting the prayer of the foregoing petition.

This closes the proceedings; no further steps appear to have been taken since that time. There is a petition of Mercedes Vidal on the subject of the decree of the 10th, but no order has been taken on it.

I do hereby, in my official capacity as alcalde of Pensacola, and keeper of the archives delivered under the treaty, certify the foregoing to be a correct abstract of the proceedings in my office, at the instance of the heirs of Nicolas Maria Vidal, for the recovery of the testamentary papers of their deceased father, and which led to the late proceedings against Domingo Sousa, clerk of Don Jose Callava, and his steward Fullarat.

H. M. BRACKENRIDGE.

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[Enclosure No. 3, in Governor Jackson's letter of the 26th August, 1821.—3 in 1.

Memorandum extracted from the record-book of Major General Jackson, &c.

We, the undersigned, do hereby certify that, at noon, on this day, 16th August, 1821, as General Jackson was about to forward his despatches to the Government of the United States, Captain B. Prieto, aid-de-camp to Don Jose Callava, late commissioner on the part of Spain for the delivery of West Florida, presented himself, in our presence, before General Jackson, as the bearer of a communication from said Spanish commissioner to General Jackson, which the latter refused to receive, without having previously delivered to him, in the form required, the certificate of receipt of provisions furnished by him to the Spanish troops for the voyage from this place to the Havana, and the transportation of civil officers, &c.; which provisions and transportation were not stipulated in the seventh article of the late treaty between Spain and the United States to be furnished by the latter. That General Jackson declared, as the reason of his refusal, that the above-mentioned certificate had been promised to be delivered, in proper form, with the solemn pledge of Jose Cruzat, secretary to the said commissioner, upon that gentleman's representing, on the morning of the 17th of July, that said commissioner, from sickness and extreme press of business, could not furnish the above certificate in time for the ceremony of giving possession; which promise and pledge had been disregarded and violated. We further certify that, upon General Jackson's refusal to receive the communication referred to, Captain Prieto withdrew, and a short time afterwards returned, stating that he had been instructed by Don Jose Callava to request of General Jackson to reconsider the subject, as it was one of great importance, and that he would be obliged, should General Jackson persist in his refusal, to report the circumstances to his Government. That General Jackson replied simply by a repetition of what he had said before, viz: that the sole condition on which he would receive the late Spanish commissioner's communication was the previous delivery, on his part, of the certificate in question, drawn up in the form which the tenor of the correspondence required; upon which delivery, he would receive any communication which Colonel Callava might make: when Captain Prieto took his leave.

EDWARD A. RUTLEDGE,
Acting Interpreter.

LIEUT. A. J. DONELSON.

ROBERT BUTLER,
Colonel U. S. Army.

II.

Major General Jackson to the Secretary of State.

PENSACOLA, September 30, 1821.

SIR: I have not had the pleasure of receiving any letter from you since yours of the 20th ultimo, and, in compliance with your instructions therein,

am preparing a report on the subjects alluded to which shall be forwarded in due time.

I had hoped, when I last addressed you, that nothing would have occurred here, after the unpleasant affair of Callava, to compel me to notice the conduct of those Spanish officers who remained; that a decent regard for the laws and the chief magistracy of the country would have induced them to demean themselves peaceably during their temporary stay. But in this I have been mistaken, and, by a reference to the within proclamation and a newspaper of the 29th instant, you will see the step I have been compelled to take, and the course which has led to it.

You will find, over the signature of the "Spanish officers," a violation of that decency and respect which is due to me, as the supreme judicial tribunal of this country, and to my sworn interpreters.

I should have been unworthy the important and sacred trust reposed in me by the President of the United States, if I could, for a moment, have suffered the dignity and majesty of the laws to be thus outraged, in that of my person and my interpreters, with impunity. So long as they confined themselves to a justification of themselves, it was well; but the moment they attacked with their gross falsehoods the dignity of the court and its officers, it became my duty to act with promptness. I have taken this step, after mature reflection and deliberation, believing it absolutely necessary for the preservation of the peace, harmony, and good government of the country. It will not do to permit a band of Spanish officers to keep the public mind in a constant state of excitement and alarm, and thereby weaken that alliance of the creoles of the country to the General Government, which is enjoined on them by my proclamation; and which, I have every reason to believe, they were disposed to yield, had it not been for the undue influence of those turbulent men, moved by others, who *work unseen*. To suffer them to remain here, after being aware of these things, and showing they defied my authority, considering themselves independent of my rule, and subordinate only to that of their chief, would have been highly improper, and could not have met the approbation of my Government. As long as I have the honor of commanding here, the Government and laws shall be respected; and all who deport themselves with becoming propriety shall receive every attention, urbanity, and politeness due them. Instead of Judge Fromentin aiding me in the administration of the Government, I have strong reasons for believing he is exciting the course that has been pursued by these Spanish officers.

I enclose, for your information and that of the President, my opinion and that of my legal associate on the question of my judicial jurisdiction and powers in the Floridas, and our decision on the case that gave rise to it. If I am correct in the construction of my judicial powers, (of which I have no doubt,) I should have been warranted in committing all concerned. I was advised to do so by those most friendly to the Government, but I thought it best to extend to them all the lenity in

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my power, and have only, in the first place, required them to leave this country, as they were bound to do by the seventh article of the treaty. All of which will more fully appear; having reference to my proclamation.

I am, sir, with sincere regard and respect, your most obedient servant.

ANDREW JACKSON.

Hon. J. Q. ADAMS, *Sec'y of State.*

No. 1.

PROCLAMATION.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and of the Intendant of the Island of Cuba over the said provinces, and of the Governors of the said provinces, respectively:

Whereas, by the seventh article of the treaty concluded between the United States and Spain on the 22d day of February, 1819, and duly ratified, it was stipulated that the "officers and troops of His Catholic Majesty, in the territories hereby ceded to the United States, shall be *withdrawn*, and possession of the places occupied by them shall be given within six months after the ratification of the treaty, or sooner, if possible:" and whereas it has this day been made known to me that the following officers of His Catholic Majesty, to wit, Marcos de Villiers, Bernardo Prieto, Louis Gayarre, Civilo Lessassier, Arnaldo Guillemaud, Carlos de Villiers, Pedro de Vegas, and Mariane Latady, and who, according to the said seventh article, ought to have withdrawn from the said ceded territory with the troops of His Catholic Majesty, have, without the permission of the existing authorities, contrary to the said seventh article, remained in this city and its vicinity: and whereas it has been made known to me that the said officers, acting in a distinct body, independent of and disowning even a temporary allegiance to the Government of the United States as existing in the Floridas, have been engaged in stirring up disaffection thereto, and in sowing discontent in the minds of the good people of this said province: and whereas it appears that they are the authors of the following false, scandalous, and indecent publication:

"In speaking of Colonel Callava's appearance before General Jackson, H. B. ought to have stated that none of the interrogatories and highly offensive accusations of the General were faithfully interpreted to Colonel Callava, any more than the replies of the latter to the former. It was, therefore, out of the power of our chief, not knowing what was said to him, to make the auditory understand how innocent he was of the foul charges with which his unsullied honor was endeavored to be stained. Such, in sum, are the observations we had to make on the statement of H. B., and we hope that he and the public will be convinced that we acted from no principle of pusillanimity; that if, on the one hand, we shuddered at the violent proceedings exercised against our superior, we knew also what was due to a

Government which is on the most friendly footing with our own.

"We are, &c.

"*The Spanish Officers resident in this place.*"

and whereas the said publication is calculated to excite resistance to the existing Government of the Floridas, and to disturb the harmony, peace, and good order of the same, as well as to weaken the allegiance enjoined by my proclamation, heretofore published, and is entirely incompatible with any privileges which could have been extended to the said officers, even if permission had been expressly given them to remain in the said province, and, under existing circumstances, a gross abuse of the lenity and indulgence heretofore extended to them:

This is, therefore, to make known to the said officers to withdraw themselves, as they ought heretofore to have done, from the Floridas, agreeably to the said seventh article, on or before the third day of October next; after which day, if they or any of them shall be found within the Floridas, all officers, civil and military, are hereby required to arrest and secure them, so that they may be brought before me, to be dealt with according to law, for contempt and disobedience to this my proclamation.

Given at Pensacola, this twenty-ninth day of September, one thousand eight hundred and twenty-one, and of the independence of the United States the forty-sixth.

ANDREW JACKSON,

Governor of the Floridas, &c.

By the Governor:

GEORGE WALTON,

Secretary of West Florida.

No. 2.

JUDICIAL OPINION.

HEIRS OF VIDAL vs. JOHN INNERARITY.

A petition was filed in this case, praying the court to have John Innerarity cited to appear and show cause why the decrees of Don Jose Callava, late Governor of West Florida, should not be carried into execution. Upon the return day of the citation, John Innerarity, the defendant, appeared, and prayed time to prepare his defence, which was granted him. At the expiration of the time allowed, he, through his counsel, prayed for further time, which was also granted. The court having met on the day appointed for the hearing, and the case being called, Mr. Acre, of counsel for the defendant, filed a plea to the jurisdiction of the court, which brings up the question, not only whether this court can legally entertain the suit, but whether there is a competent tribunal in the country to try the case. In support of this plea, he took the following grounds: First, he conceded that the Governors of the Floridas acted in a judicial capacity, and had done so time out of mind, until the promulgation of the constitution of the Cortes of Spain, some time in 1820; and as the constitution of the Cortes was in force in Spain at the time that the sovereignty of Spain over the Floridas was ceded to the United States, it was a part

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of the law of the Floridas. By that constitution, the judicial power, before exercised by the Governors, was taken from them, and given to other tribunals; and, as a deduction from these premises, Governor Jackson could not sit as a court, only having the powers of the Governors of the Floridas, the Captain General of Cuba, and the Intendant, as limited and prescribed by the constitution of the Cortes, published some time in 1820. Mr. Brackenridge, on the part of the petitioners, contended that the Spanish Government, of which the judiciary is part, has ceased, although the laws and usages are still in force. The error of opinion on this subject, he said, arises from not distinguishing these things. The powers executed by the officers of Spain are retained, not the officers; and an entirely different distribution made of them, to which the President was authorized by the act of Congress. That the Spanish constitution is not in force here, because not promulgated until Spain had parted with the sovereignty, and because it merely provides a form of government; it is not, therefore, applicable to us. He contended, from the act of Congress, and the Governor's commission, it was, undoubtedly, the intention of the President to give the same powers as had formerly been exercised by Governor Claiborne in Louisiana, on taking possession of that country, under similar circumstances. The constitution of the Cortes, he said, must be referred to, to ascertain the powers of the Captain General, Intendant, and Governors of the Floridas; for, in that case, he went on to show, that the country would be left without civil government of any kind. According to that constitution, the Captain General is only a military officer, and the Governors of the Floridas are military officers under him. As Intendant, he would have no power.

The very able and satisfactory discussion this question has undergone by the gentlemen of the bar, by which the court was not only delighted, but instructed, has stripped it, in a great measure, of its difficulty. It, however, remains one of the first importance to the rights of the people of this country, and, as such, has received the most anxious consideration and attention of the court. Judicial power is an important trust, its execution often painful, and it does not hold out sufficient attractions to cause it to be sought after, especially by those who are duly and truly impressed with its awful responsibilities. It now becomes necessary for the court to inquire whether there exists sufficient judicial power in this country, since the change of sovereignty, to carry into effect the decrees of the late Governor of West Florida. If there is, where is it vested? It was not seriously contended that jurisdiction did not rest somewhere; but the difficulty on the part of the defendant's counsel consisted in pointing out the tribunal. By referring to the act of Congress, entitled "An act to carry into effect the treaty between the United States and Spain," the second section of which is in these words, "*And be it further enacted*, That, until the end of the first session of the next Congress, unless provision for the temporary government of the said Territories be

sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing Government of the same Territories shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for the maintaining the inhabitants of said Territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of said treaty, in favor of Spanish vessels and their cargoes, and the laws relating to the importation of persons of color, shall be extended to the said Territories. And the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and during the recess of Congress to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him may seem expedient;" there is no stipulation in the treaty that the sovereignty of Spain over the Floridas should continue in force one moment after the signing of the treaty, and certainly not after the time limited by it for its ratification. In morals and good faith the sovereignty was, from that time, in the United States *de jure*, and Spain only had the Government *de facto*. The act of Congress to carry into effect the treaty had relation back to that time, as is fully expressed in the ratification, not only of Spain, but the United States; and the United States are only bound to maintain the inhabitants of the ceded country in the enjoyment of their liberty, property, and religion.

We will here read the commission given by the President to Major General Andrew Jackson, and see what powers it has pleased the President to invest him with; which commission is in the following words, *viz*:

"JAMES MONROE, President of the United States of America, to all to whom these presents shall come, greeting:

"Whereas the Congress of the United States, by an act passed on the third day of the present month, did provide that, until the end of the first session of the next Congress, unless provision be sooner made for the temporary government of the Territories of East and West Florida, ceded by Spain to the United States by the treaty between the said parties, concluded at Washington on the 22d day of February, 1819, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for maintaining the inhabitants of said Territories in the free enjoyment of their liberty, property, and religion: Now, know ye, that, reposing special trust and confidence in the integrity, patriotism, and abilities of Major General Andrew Jackson, I do, in virtue of the above recited act, appoint him to exercise, within the said ceded Territories, under such circumstances as have been, or may hereafter be prescribed to

him by my instructions, and by law, all the powers and authorities heretofore exercised by the Governor and Captain General and Intendant of Cuba, and by the Governors of East and West Florida, within the said provinces, respectively; and do authorize and empower him, the said Andrew Jackson, to execute and fulfil the duties of this present appointment according to law; and to have and to hold the same, with all its powers and privileges, until the end of the next session of Congress, unless provision be sooner made for the government of the said Territories so ceded by Spain to the United States: *Provided, however, and it is the true intent and meaning of these presents,* That the said Andrew Jackson, or any person acting under him, or in the said Territories, shall have no power or authority to lay or collect any new or additional taxes, or to grant or confirm to any person or persons whomsoever, any title or claims to land within the same.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, at the City of Washington, the tenth day of March. A. D. one thousand eight hundred and twenty-one, and of the independence of the United States of America the forty-fifth.

"JAMES MONROE.

"By the President:

"JOHN Q. ADAMS."

From this commission we collect the fact that it was the will and intention of the President to invest Governor Jackson with all the civil, military, and judicial powers exercised by the officers of the Spanish Government over the Floridas before the change of sovereignty, as he was empowered by the second section of the act of Congress before recited, with such limitations, and subject to such instructions, as it might please the President from time to time to prescribe. The said powers, given as aforesaid, are limited only by the following instructions and reservations of the President, which are, that the Governor of the Floridas shall have no power or authority to lay or collect any new or additional taxes, or to grant or confirm to any person or persons whomsoever any title or claims to land within the same. From the exceptions themselves, we arrive at the conclusion that all the civil, military, and judicial powers are given, with this further exception—such parts of them as are conferred on others; for all the above powers are vested somewhere, being absolutely necessary to carry on the Government.

The argument of the defendant's counsel against the jurisdiction of this court is predicated on the supposition that the constitution published by the Cortes of Spain is in force in this country; and, if we can show that it is not, it totally fails. We will here give a succinct history of this constitution, and show that it is not in force.

Some time in the year 1812, Ferdinand VII., King of Spain, was a prisoner in France; the Cortes, during the King's exile, framed the Constitution, and published it in Old Spain; some sections of Old Spain adopted and others rejected

it. But it never was promulgated in any of the transmarine provinces of Spain, or any decree under it, during the time of Ferdinand's absence, so far as we have been able to learn, after diligent research and inquiry. On the 4th day of May, 1814, Ferdinand VII., having previously returned to Spain, and assumed the royal functions, by a solemn decree promulgated over his whole empire, dissolved the Cortes, annulled all their decrees, and made it treason in his subjects, or any of them, to attempt to carry the constitution or decrees under it into effect. In this situation the Government of Spain remained at the conclusion of the treaty between the United States and Spain, signed by their respective Plenipotentiaries on the 22d day of February, 1819. The ratification of this treaty was unaccountably delayed on the part of Spain till the 24th of October, 1820. By the sixteenth article of the treaty, it was to have been ratified in six months next after the 22d of February, 1819, viz: on the 22d of August, 1816, or sooner, if possible. And, in the ratification, Ferdinand VII., by the consent and authority of the General Cortes of the nation, declared that the ratification should be as valid and firm, and produce the same effects, as if it had been done within the determined period, viz: the time prescribed by the seventh article. This, of itself, is sufficient to exclude the idea that the constitution of the Cortes is in force in this country. If any thing else is wanting, we have the fact that the constitution of the Cortes was only promulgated in the island of Cuba some time in the month of January, 1821, (about three months after Spain had parted with the sovereignty of the Floridas;) and, if it was ever promulgated in these provinces, it must have been after that time, and long since Ferdinand VII., in ratifying the treaty by the consent and authority of the General Cortes of the nation, had parted with the sovereignty, &c.

It cannot be seriously contended by the defendant's counsel that any act of Spain, after the ratification of the treaty, could be considered in force in the country ceded, by virtue of the proclamation of the Executive of this country. Such a construction and such doctrine is incompatible with the sovereignty of the United States over the Floridas. But it is said that the proclamation declares that all the laws and municipal regulations of Spain are in force. It must be remembered that the first part of that section of the proclamation alluded to, states that the government of Spain has ceased, and that of the United States has commenced; these words qualify those general words relied on, and limit them to mean only so far as is compatible with the change of sovereignty. As well might he contend that Spain can legislate at this time for the Floridas. Legislation being one of the attributes of sovereignty, must exclusively belong to the sovereign power. Can it be seriously contended that the constitution of Spain is in force here, as one of the laws and municipal regulations, continued in force by the proclamation of the Governor, founded on the act of Congress to carry into effect the treaty? We have now clearly proved, we believe, that the constitu-

tion of the Cortes is not in force here. By the second section of the act just referred to, the President of the United States is authorized to have the civil, military, and judicial powers exercised in such manner as he may direct; for it cannot be contended that he has not authority to place the judicial power wherever he pleases.

We will now proceed to show that the President did not consider the constitution of the Cortes was in force in this country; and for which purpose it is only necessary to refer to the President's instructions, contained in the Governor's commission; wherein he takes from him the power of granting or making concessions of lands, or confirming those previously made.

Now, if he considered the constitution of the Cortes in force in this country, to have given these instructions, or expressly to have limited his powers in these particulars, would have been useless and unnecessary, as the constitution of the Cortes took away from the Captain General, the Intendant, and Governors of provinces, the power of granting lands; therefore, on conferring on Major General Jackson the commission of Governor of the Floridas, to exercise the powers of the Captain General and Intendant of the island of Cuba and Governor of the Floridas, he did not intend that those powers should be limited and prescribed by the constitution of the Cortes, but that he should exercise them as they were exercised on the 22d of February, 1819, the day on which the treaty was signed. We, therefore, think Governor Jackson has the power to carry into effect the decrees of the late Governor of the Floridas. The counsel for the defendant, in his very able and ingenious argument, suggested that, as the President had appointed a judge of the United States for West Florida, possibly his tribunal might have jurisdiction of this case. He admitted, however, that he could not have jurisdiction, unless it was positively given him by statute, or the express instructions of the President. From the commission read, and the deductions already made, it fully appears that the jurisdiction of this case has been conferred on the Governor, and cannot be presumed to be given to the judge. Having seen the commission of the judge, he is expressly required, by instructions contained in it, to consider himself as governed by the laws of the United States; and the inquiry now is, what laws of the United States are extended to the Floridas, taken in contradistinction to the Spanish laws in force here? From the second section of the act, entitled "An act to carry into effect the treaty between the United States and Spain," before read, we find that only such laws as relate to the revenue, and the importation of people of color, are extended to the Floridas. And as these subjects have been expressly excepted, and taken out of the general powers of the Governor, it is fair to presume that these subjects, and the cases arising under the two laws of the United States expressly extended to this country, are alone the legitimate objects of the judge's jurisdiction, until the contrary be shown from any instructions he may have from the President of the United States. In short, the

judge's jurisdiction is not denied by any act of Congress, and he can exercise no jurisdiction that is not expressly given him by the President's instructions.

In conclusion, we will add, there are technical objections to the plea filed in this case. In a plea to the jurisdiction of this court, it is necessary to show that there is another court in which effectual justice may be administered; the plea under consideration wants that requisite, which alone ought to be sufficient to warrant this court in taking jurisdiction, lest there might be a failure of justice. We are perfectly satisfied that this court have jurisdiction, and therefore overrule the plea, and order the defendant to proceed to show cause, if any he has, why the decree of Don Jose Calava, late Governor of West Florida, should not be carried into execution.

THE HEIRS OF VIDAL vs. JOHN INNERARITY :

The defendant in this case, on the rule to show cause, filed several reasons why the decree, as prayed for, should not be carried into effect. These reasons have been ably argued both on the side of the defendant and the petitioners.

It now becomes the duty of the court to pronounce its decree; but, before doing so, we will endeavor to give a succinct statement of all the proceedings in the case.

We find, on the records of the judicial tribunal to which this court has succeeded, a decree, which does not appear ever to have been complied with. The duty of a judge to carry into effect the decrees of his predecessor is clearly pointed out by the *partidas*. It is true this cannot be called a final decision or judgment of the matter in dispute between the parties; yet, as far as it goes, it is *res judicata*, (or thing judged by the competent tribunal), and remains only to be carried into effect, although, after being carried into effect, something may still remain to be done before a final close to the proceedings. The decree must either be executed or rescinded; the latter can only take place after examining the grounds on which it was entered up; and that we have a right to do this, we think at least doubtful, and certainly would not, unless gross injustice or contradiction appeared on the face of the decree itself. If a decree wanting those substantial requisites known to all laws should be made, it would be a nullity: as if pronounced without a citation to the defendant, or his being before the court, such would be looked upon as no decree. And all decrees can be set aside on the ground of fraud, or where corruption is shown in obtaining them. But where the decree stands unrescinded, it must be executed. Such, also, is the English law of equity: a decree must be first obeyed and performed; as if it be for land, the land must be first given up; if it be for money, the money must be paid; if for evidences, the evidence must be brought in; and the like in other cases. (Cooper's Equity, page 90.)

The decree under consideration embraces three distinct subjects:

1st. The deposit admitted to have been intrusted to the house of Forbes & Co., which the

defendant represents; and this deposite is declared by the decree not to have been legally and regularly accounted for.

2d. The land at Baton Rouge, sold at the instance of Forbes, and which the decree now declares to be left open between the parties as the subject-matter of a distinct suit.

3d. The sale of property at New Orleans; moneys said to have been received at Madrid and elsewhere, and not accounted for.

As to the first, it was a subject within the control of the court at any time; that is, to compel the restoration of the deposite, or to account for its disbursement. The law on this point is clear, taking it for granted that the deposite has been made, that the depository is, *quoad hoc*, under the control of the court. If it be notified to the depository that it is the will and pleasure of the court that the deposite be brought into court, it is all he can ask or require. It would be absurd to say that the court should institute a suit, make up the pleadings, join issue, &c. in such a case, and that, too, when the deposite was placed by the order of the court in the hands of the depository for safe-keeping, always subject to its order.

The court are of opinion that the certificate of the clerks of the office that the decree of the late court was made known to John Innerarity, the defendant, is sufficient evidence of the fact. Great stress was laid by the defendant's counsel on the circumstance that a part of the certificate is contradicted by inspection of the paper, viz: that the defendant has affixed his signature, as evidence of notice to him; when, in reality, he has not. But we say that the certificate ought not to be impeached on this ground, because it cannot deceive; and if they had in reality acted corruptly in office, they would not have certified that as a fact which the certificate itself disproves. The affixing the signature of the party notified does not appear to be an essential formality, and is more frequently dispensed with than required. The substance is notice to the party; and this we think is sufficiently proved by the certificate of the clerks. As respects the decree to make the deposite, we think the defendant had sufficient notice. That part of the decree relative to the land, from its nature, is not before the court; it amounts to nothing more than declaring the subject open for the parties to prosecute their claims according to law.

The second is merely a decree to account to the court for property belonging to the estate sold in New Orleans and elsewhere. The decree to account is, in most instances, granted as of course. It follows the plaintiff's petition, and we can see nothing irregular in giving the defendant notice of both at the same time, particularly as no injury could result to him from this course.

Again: even supposing all these formalities necessary, taking into view all the circumstances of the case, it is an act of comity due from one court to another to presume that all the necessary preliminary steps were taken before the decree was made, unless the contrary be made most clearly to appear, which the defendant has failed

to do in this case. Knowing that, even where citations are necessary, it is a principle of law that appearance will do away the necessity of process, or cure all its defects, it is a violent presumption to suppose he did appear? We think not; and the law, by which the court is bound, would clearly presume the fact. The petition before the court would, of itself, be sufficient to ground a decree similar to the one which is prayed to be enforced. It is not alleged that an account has been rendered of the property seized, and sold by Forbes & Co., in New Orleans; and it appears by a former decree that Forbes was expressly ordered to raise the attachment he had laid on the property, and proceed to make sale of it, and render an account. But, independently of this view of this subject, we conceive that the defendant was before the court as a party interested in the settlement of the estate of Vidal. This is not the case of a lawsuit between A and B; the subject is the complete and final adjustment of the estate of a deceased person, to affect the interest of all in any way concerned, to wit, the creditors, heirs, executors, administrators, and depository. According to the Spanish law, as well as the law of equity in the United States and England, the court will not suffer the matter to go out of their hands, and be finally at rest, until complete justice be done to all concerned.

The affairs of the estate do not appear to have been finally closed when the first petitions were presented by the heirs. Although the petitions of Caroline and Mercedes Vidal had, in the first instance, nothing in view but to coerce the production of the papers relative to the estate in the hands of the defendant, yet the object was evidently to compel him to account, if, on examination of the papers, there should be any thing due them; and, in one of the petitions presented for the production of the papers, interrogatories are put to John Innerarity, the defendant, touching the very matters for which the decrees following the petitions, subsequent to their production, are rendered. To these interrogatories the defendant puts in a plea, in the nature of a demurrer, and his counsel has taken great pains to show he was not bound to answer them. This is not the question. It is, whether, by appearing, he is not to be considered as before the court in the particular demand of the heirs, as well as in the testamentary proceedings in general.

The defendant's inexplicable conduct in keeping back the papers, and producing them at last on compulsion, with the excuse that they were discovered by a "most extraordinary accident," does not incline the court to make any very violent presumption in his favor.

The defendant is in the situation of a party brought before a court of chancery on a bill of discovery; being once before the court, justice will be done the parties on a view of the facts disclosed. In the Spanish courts, as well as in our courts of equity, the remedy does not exclusively follow; but the court will give such relief, and make such decree, as the nature of the case and justice may require. Again: we are of opin-

ion that the court could order or decree that the depositary should bring the deposit into court, without being cited to hear the dictamen ordering him to do so, and could inform him of it in any manner the court thought proper. It is also our opinion that the decree to account for the proceeds of the property intrusted to him by the court is *ex parte*, and did not require a citation to hear it, as, in the matters under consideration, he was acting in a trust confided to him by the court, and is in that respect to be considered and viewed in the light of an officer of the court.

The court, for its own satisfaction, has compared the decree before them with the testamentary proceedings to which it refers, and are satisfied that the judge's *dictamen* is, in the main, fully supported. That the testamentary proceedings have been irregular, is self-evident; a complete inventory of the whole estate was never made. Three of the creditors, of whom Forbes was the principal, administered on the property found in this place, and afterwards, on the order of the court, handed it over to the executor, who made sale of the same. No inventory or appraisal appears ever to have been made of the real estate, and nothing but a loose and imperfect one was made of the effects in New Orleans.

The land was seized and sold under a mortgage made to Arroyo, in a manner so evidently irregular that we would be warranted in saying that it was fraudulent. The same tribunal, a year afterwards, annulled the sale, and ordered the property to be sold a second time. By a decree of Don Jose Callava, late Governor of this province, the second sale is declared void and illegal; and by the *dictamen* now under the consideration of the court, the subject is again opened, and Forbes and others are permitted to make defence.

The proceeds of the sales of personal property were drawn from the hands of Annas, the executor, on the petition of Forbes, and placed in the public treasury; and afterwards, on application of Forbes, drawn out of the treasury, and placed in the hands of Forbes & Co. in the character of a deposit.

The second sale of the real property at Baton Rouge was ordered at a meeting of the creditors, of which Forbes appears to have been principal; and the money in deposit is said to have been appropriated, on an order of the court, to the payment of the debt due Arroyo, for which the lands were sold in the first instance; and the proceeds of the second sale were placed in the hands of Forbes & Co. as a deposit.

The decree on which we are now acting, whether it be considered as relating to the first or second deposit, declares that the disbursement of the sum deposited has not been accounted for in a satisfactory manner.

The Spanish tribunal has thought proper to review the whole of the proceedings in the testamentary affairs of Vidal. We take it for granted it had a right to do so. Whether this court would have acted in this manner, or proceeded in a different way, is not the question. The court will

take up the record as they find it, and, unless the *dictamen* is glaringly unjust on the face of it, or void of all the essential formalities, it must be substantially enforced.

The testamentary affairs were not closed; and we find, from every part of the proceedings, the former tribunal considered itself at liberty to retrace its steps when supposed to be in error. But when decrees are made, they must be executed; for it cannot be supposed that a court could be guilty of so much levity as to make them to-day, only to be rescinded to-morrow. From the pains evidently taken by the judge in examining the grounds and making up his decree, it cannot be presumed, as intimated by the defendant's counsel, that he intended merely to amuse the plaintiffs, and that the approbation and signature of the Governor were obtained by *legerdemain*; this would cast a most gross imputation on the tribunals to which we have succeeded. The present case is one where the former tribunals have reviewed their own decrees; and is it for us to say that they had no right to do so, especially when we find that the same thing has been done in various instances in the progress of this testamentary proceeding? Although we might consider ourselves restrained from reviewing and re-examining their decrees, (except on the grounds before stated,) yet this is very different from saying they have no right to correct their own proceedings. We find them in the present case thus corrected, and are called upon to execute the last *dictamen*. We will do so substantially.

Therefore, it is ordered, adjudged, and decreed by the court, that John Innerarity, the defendant, produce exact accounts, supported by legal documents, within twenty days from this day, according to the decree of Suares and Callava, dated Pensacola, 30th of June, and 1st of July, 1820, before such auditors as this court shall appoint. And it is ordered, adjudged, and decreed, that the said Innerarity hypothecate, before the notary public of Pensacola, unencumbered real property situate in the city of Pensacola, to be valued at \$8,500, within five days from this time, to secure the deposit and interest thereon, for the purpose of satisfying any final decree this court may pass against him on account of said deposit. And it is further ordered, adjudged, and decreed, that, in case the said Innerarity should fail to comply in giving the security ordered on the sixth day, the petitioners may have execution for the sum of \$8,500. Said execution is first to run against the personal property of the said Innerarity; after that is exhausted, his body may be taken in execution.

And it is further ordered, adjudged, and decreed, that the said sum, or such part of it as may be made, shall be brought into court, and be subject to its further order; and that the execution be returnable in thirty days from the day it issues. And, lastly, it is further ordered, adjudged, and decreed, that the heirs of Vidal may prosecute their claims relative to the 16,000 acres of land, as authorized in the *dictamen* of Suares of the

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30th of June, 1820, and confirmed on the 1st of July, 1820, by Callava.

JOHN C. MITCHELL.

Approved: ANDREW JACKSON,
Governor of the Floridas, &c.

To F. H. Nisbet, J. De la Rúa, and William Davidson, Esquires.

HEIRS OF VIDAL vs. JOHN INNERARITY.

WEST FLORIDA, EXECUTIVE CHAMBER,
September 17, 1821.

In virtue of a decree this day rendered in the above case by Major General Andrew Jackson, Governor of the Floridas, &c., and John C. Mitchell, Esq., sitting as the supreme court of judicature in this province, you are hereby appointed auditors to arrange and settle the said estate; and you will appear before me at the Executive Chamber to take the requisite oath for the faithful discharge of the duties assigned you.

JOHN C. CONNOR,
Clerk of the Executive Court.

SEPTEMBER 18, 1821.

The above named auditors appeared before me this morning, and, having taken the oath prescribed, were considered as qualified to enter upon their duties.

The said auditors then appointed Edward A. Rutledge, Esq., as secretary to the board.

Test: JOHN C. CONNOR, *Clerk.*

III.

Secretary of State to Governor Jackson.

DEPARTMENT OF STATE,
Washington, October 26, 1821.

SIR: I have had the honor of receiving your letters of 30th July, 26th August, and 1st September, with their respective enclosures, which have been submitted to the consideration of the President of the United States.

I now enclose a copy of a letter which I have, by his direction, written to Judge Fromentin, informing him that it was intended that his jurisdiction should be confined to the execution of the only laws of the United States which, by act of Congress, had been extended to the territories of Florida, namely: the laws relating to the revenue and its collection, and to the slave trade. In the execution of these laws, which are of a nature entirely distinct from those of Spain, operating in the provinces, the President is of opinion that he should be amenable only to the Government of the United States.

I enclose, also, translations of a letter from Mr. Salmon, *Chargé des Affaires de Spain*, and of a statement by Colonel Callava, relative to the arrest and detention of his person, and of the forcible seizure and abduction, under your authority, of certain papers which were in his possession, with a copy of the answer given to the letter of Mr. Salmon. Before an ultimate answer shall be given to the Spanish Minister upon this complaint, the President has thought it proper to transmit these documents to you, with the purpose of receiving any

remarks, either in relation to the facts alleged, or to the principles asserted in them, which you may think the occasion requires.

Appreciating, as the President does, the sense of duty under which you felt yourself compelled to resort to these measures, and the objects of high and impartial justice to which they were in your estimation rendered indispensable, I am directed particularly to invite your attention to the following circumstances represented in these papers:

1. That Colonel Callava claimed as of right the immunities, with reference to his person, to his dwelling-house, and to his papers, which, by the customary laws of nations, belong to public commissioners appointed to negotiate or to execute treaty stipulations between nation and nation.

2. That you had transacted business with him in the capacity of a public commissioner as late as the 3d of August, three weeks after the day on which the surrender had been made of the territory.

3. That the papers finally seized by your orders had never been officially demanded, and that he had offered to deliver them, or give adequate security that they should be delivered, if they should prove to be of the description of papers stipulated by the treaty to be left in the territory.

4. That, at the time when he was forcibly brought before you, and required to submit to examination upon interrogatories, neither the questions asked of him, nor his answers, were correctly interpreted.

It is proper to apprise you that, in the opinion of the President, so far as Colonel Callava could justly claim the rights of a commissioner for the surrender of the territory, he was entitled to all the immunities which might be necessary for the execution of his trust, and which the laws of nations recognise as belonging to public ministers. As authority for this opinion, I refer you to Vattel, book 4, ch. 6, § 75, and ch. 9, § 125.

A different sentiment appearing, from your letter of the 26th August, to have been entertained by you, it would be satisfactory to learn upon what grounds it had been taken up; or, if the privileges incident to this immunity had in your view ceased, it is desirable to know the considerations upon which you had so deemed of them; the view taken of them in the answer to the note of Mr. Salmon admitting the right only in general terms, and inferring that they had ceased by the act of surrender, and of reasonable time for departure, as well as by the limitation of the time for the surrender stipulated in the treaty.

I shall reply as early as possible to the other subjects of your letter; and, in the mean while, have the honor to be, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

ANDREW JACKSON, Esq.,
Governor of Florida.

Governor Jackson to the Secretary of State.

NASHVILLE, November 13, 1821.

SIR: I arrived at this place on the 5th instant, and have deferred writing you until the present

moment, indulging the expectation that I should in the mean time have received some communications of interest from the Floridas; in this calculation, however, I have been disappointed, in consequence of the irregularity of the mails between this and that place. There has been no arrival, bringing any thing of a later date than that of my departure from Pensacola.

From the National Intelligencer I have discovered that a publication has appeared in the Charleston Patriot, purporting to give the substance of a correspondence between Judge Fromentin and myself, with accompanying strictures upon the same; and stating that "detailed accounts of the whole affair," with copies of said papers, had been transmitted to Washington; that they "have been confided to individuals, and are circulated privately." On referring to my former communications, I do not find that a copy of that correspondence has been forwarded to the Department of State; and believing, as I do, from Judge Fromentin's disregard to truth, that he has secretly circulated it, without the accompanying certificates, for the purpose, if possible, of forestalling public opinion, I herewith enclose copies of all the documents touching the transaction, with a request that they may be laid before the President, and, should it be deemed necessary, to be communicated for the information of the Congress of the United States. This *exposé* furnishes a satisfactory view of the whole ground in dispute, and incontestably proves that Judge Fromentin has been guilty of wilfully and wickedly fabricating the most palpable falsehoods. The evidence of such unblushing depravity and corruption should be placed in the possession of the President, and, in strict justice, deserves to be exposed to the execration of the whole American people. When an officer of such high responsibility under the Federal Government manifests such baseness and obliquity of heart, it ought to excite our alarm, and stimulate the proper authority to apply the most speedy and efficient remedy.

When Judge Fromentin appeared before me, in obedience to the citation served upon him, and made what I conceived to be a sufficient apology for interfering with my jurisdiction, by issuing the writ of *habeas corpus*, and having explicitly and positively promised that he would not again do any act to impede the exercise of my prerogative, I was perfectly willing that the affair should here be put to rest, and, if possible, be buried in oblivion. With this view alone, I barely required his signature to so much of the proceedings between us as was absolutely necessary for my own justification, and to show that he had granted the writ without petition or affidavit, agreeably to law, and that he did not recollect to whom or to which of the applicants it had been delivered!

Although the judge, in the publication referred to, asserts that our interview and its results were the topics of conversation in the town of Pensacola for a week after they transpired, I can confidently state that they never did become the subject of remark where I was present, except on the evening subsequent to his discharge. On that occasion

there appeared to be a universal concurrence of opinion that the judge's apology, as made in the presence of several respectable gentlemen, was a correct and prudent measure on his part, and that it was an act of lenity and forbearance on mine, in thus terminating this hasty and indecorous attempt to embarrass the administration of justice; inasmuch as the instructions and duty of the judge enjoined it upon him to co-operate with me in the administration of the Government, and in distributing justice equally to all. A general surprise was also expressed at the circumstance of his sympathies being exclusively enlisted for the relief of Colonel Callava! With respect to poor Domingo Sousa, and Fullarat, the steward, the law was to be permitted to take its course, and, although the servile instruments of Callava, they were to be left to their fate! For them, Judge Fromentin seems to have had no bowels of compassion. They might have perished, and rotted in prison, before he would have stepped forward, with the sanction of his authority, for their deliverance. The fact was, they had no wealth or influence, and the judge was not, consequently, clothed with the power to issue a writ of *habeas corpus* for their relief. Agreeably to his principles, the laws of the United States are only made for the punishment of the humble and pennyless; but, whenever opposed to wealth and power, they must either remain inoperative, or, if enforced, it must be done with great delicacy and respect. This course of proceeding may very well comport with the corrupt and inquisitorial system of former Spanish tribunals, but they are clearly and palpably unjust, and merit the unqualified reprobation of every honest and intelligent American. I can assure you that, so far as I have been enabled to collect an expression of public sentiment relative to the conduct of Judge Fromentin, it has evidently rendered him so odious and contemptible, that his name is only mentioned in genteel circles to be deprecated and despised. It is considered so flagrant and flagitious a departure from justice and propriety, as seriously to impair his standing, and rather to produce disaffection than inspire respect and confidence in the American authorities in Florida.

Situated as Judge Fromentin was, I did not anticipate that he would have had the hardihood and temerity to revive this transaction, and make it a subject of public investigation. Good sense, as well as the best policy, would certainly have dictated a very different procedure. After his concessions and open acknowledgments that he had acted hastily, and without a due consideration of the case, it could not have been expected that the most abandoned and profligate would have denied the facts, particularly when those declarations were made in the presence of several gentlemen of the most unimpeachable integrity. The man who could thus prostitute his signature for the propagation of such glaring and barefaced falsehoods, evinces an effrontery almost without a parallel, and a destitution of principle very incompatible with the character of one selected to administer the laws as judge of the United States. Elevated as he was, I had hoped that I should

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meet with a manly feeling and lofty integrity corresponding with his honorable station; but I sincerely regret to say that he has displayed a want of honesty and candor only becoming an apostate priest, and which is enough to suffuse the cheek of depravity itself with a blush. I may, perhaps, express my indignation upon this subject with too much freedom. If the language is harsh, I am willing to acknowledge that it does not altogether become me, but I am not convinced that it is not merited in its application.

Upon a perusal of the whole correspondence and accompanying documents, and after a mature consideration of the subject, I am induced to believe that the President will be entirely satisfied of Judge Fromentin's having acted regardless of principle and duty, and that he is altogether unworthy of the confidence reposed in him as a judicial officer of the United States. To communicate the testimony necessary to establish this fact, I have been impelled by the imperative obligations which I feel myself bound to discharge in justice to myself and our common country.

With every assurance of respect and esteem, I am, &c.

ANDREW JACKSON,
Governor of the Floridas.

P. S. Doctor Bronaugh will hand you several depositions and reports in the case of Callava, which I have forwarded in addition to those heretofore transmitted upon the same subject. It is my desire that they should be submitted to the President, and, if called for, to be laid before Congress. Altogether, they demonstrate the falsehood of Callava's statement, and show how little regard he had to truth in making it.

ANDREW JACKSON.

HON. J. Q. ADAMS,
Secretary of State.

No. 1.

Judge Fromentin to Governor Jackson.

PENSACOLA, September 3, 1821.

SIR: I am informed that it is rumored in town that, in the interview between your Excellency and myself, in the afternoon of the 24th ultimo, I had apologized to your Excellency for issuing a writ of habeas corpus in the case of Colonel Callava. I hope your Excellency will not hesitate in enabling me effectually to contradict that report.

Your Excellency cannot have forgotten that, from the beginning to the end of the conversation, I insisted, not only on the right, but on the duty of a judge of the United States to grant that writ; and that, among other things, upon being questioned by your Excellency whether I would order a writ of habeas corpus to be served upon the Captain General of the island of Cuba, I told you no; but that I would not hesitate, if the case should require it, and if I had the necessary jurisdiction, to issue one to be served on the President of the United States. To this you answered, that the President was only liable to impeachment; I

added that I was confident that, in my place, you would have issued a writ of habeas corpus.

I have the honor to be, &c.

ELIG. FROMENTIN.

Judge of the U. S., &c.

His Ex'cy Governor A. JACKSON.

No. 2.

Governor Jackson to Judge Fromentin.

PENSACOLA, EXECUTIVE CHAMBERS,
September 3, 1821.

SIR: Your note, by Mr. Scott, has just been handed to me; and I am truly astonished at its contents, and, in answer, state, that when you appeared before me in the Executive Chamber on the 24th ultimo, you did then and there state, and acknowledge, that you had acted hastily, without due consideration, and without proper information as to the facts of the case, upon the importunities of John Innerarity and some other Spanish gentlemen; and that, had you been apprized that Colonel Callava had been committed by me for contempt of my authority, you certainly would not have interfered; and you further acknowledged that you had called upon me several times in a friendly way to advise with me as to your jurisdiction, and that I had always told you that it was my opinion you had no other jurisdiction, except as far as the laws of the United States had, by the act of Congress, been extended over these provinces; and that, when I showed you the powers which had been granted to me by the President of the United States, you declared that there was no necessity for your being here, and that you might as well return to New Orleans; and that I replied that you had jurisdiction over the revenue and the infraction of the laws of Congress prohibiting the importation of slaves. And you did then declare that, hereafter, you would in no way attempt to interfere with my authority.

There was likewise some conversation in relation to the powers of a judge of the United States to issue a writ of habeas corpus in the States, except in particular cases; and I stated to you that, if you were in the States, you would have no right to interfere in the manner which you had attempted here, and referred you to the laws of Congress. If this, sir, was not an apology, I know not what is. I received it as such, and dismissed you accordingly, under the citation by which you were brought before me to show cause, &c.

I am, sir, with due respect, &c.

ANDREW JACKSON,
Governor of the Floridas, &c.

ELIGIUS FROMENTIN, *Judge, &c.*

No. 3.

Judge Fromentin to General Jackson.

PENSACOLA, Sept. 3, 1821.

SIR: If your Excellency has been astonished at my letter, I may assure your Excellency that I have been not less so at reading your answer. I "acknowledge that I had acted hastily, without due consideration, and without proper information

as to the facts of the case, upon the importunities of John Innerarity and some other Spanish gentlemen; and that, had I been apprized that Colonel Callava had been committed by you for contempt of your authority, I certainly would not have interfered!" Never, sir, never! My blood recoils at such a statement. Its last drop will flow before I subscribe to it.

Give me leave, sir, to put your Excellency in mind that you began the conversation, and I could scarcely find time to place a word; nor did you hear me mention Mr. Innerarity's name, nor any other name, until your Excellency asked me who were the persons that had applied for the writ; and then I mentioned Mr. Innerarity's name, with the names of the other gentlemen who, jointly with him, had applied for it. The conversation then turned on the verbal application for the writ, when Doctor Bronaugh entered, and reduced that part of it to writing. The extent of your powers was the next topic, and you read the act of Congress, and began to read one of your commissions. But neither then, nor at any time before, did your Excellency favor me with an entire perusal of your several commissions.

On that occasion, as on every other preceding occasion, when our respective powers and duties were the subject of conversation, you insisted on my being confined to the two cases stated by your Excellency; and, as that had already been referred to the President, it was unnecessary for me to insist.

It is most assuredly true that I said that I never had, nor ever would interfere with your authority; nor indeed, sir, the authority of any other man. But, sir, does it follow that I am disposed to surrender the authority vested in me? Assuredly not. Legal authority is one thing; illegal authority is another thing. Upon that we differ. A higher tribunal than yours or mine must of course pronounce. I have the honor to be, &c.

ELIGIUS FROMENTIN.

His Ex'cy Gov. ANDREW JACKSON.

No. 4.

Governor Jackson to Judge Fromentin.

PENSACOLA, September 3, 1821.

SIR: I have this moment received your second note of this day. The first excited my astonishment, it is true; but the second my indignation and contempt; for I did not suppose, until your note now before me furnished conclusive evidence, that you were capable of stating a wilful and deliberate falsehood. That you have done so in your note of this evening, I do assert, as the enclosed certificates of Dr. J. C. Bronaugh (who was directed by me to pay particular attention to our conversation) and Mr. Rutledge fully prove. That you have the hardihood to deny that, when you called at my house, I did not send for my book to the office containing the record of my commissions and instructions, and that I did not read the whole of them to you, shows that you are regardless of truth; and in this I do pronounce that you have stated another deliberate falsehood.

I have barely to add, that I recommend to you to keep within your legal jurisdiction and powers. Whilst you do this, all your proceedings will be supported, and all my aid given that may be necessary to carry them into effect; but when you attempt to transcend them, and interfere with my legitimate powers, recollect the admonition I gave you when before me on the 24th ultimo, and attend to it, or you will be treated and punished as you deserve, regardless of your boasts of blood flowing, &c., which pass by me as the fleeting breeze.

Here, sir, on this subject, our communication closes, as I am too much engaged to read yours.

I am, sir, yours, &c.

A. JACKSON.

To ELIGIUS FROMENTIN, Esq.

[The following are the certificates alluded to in the foregoing.]

No. 5.

PENSACOLA, September 3, 1821.

SIR: Agreeably to your request, I have the honor to state that I was present when the conversation took place between Judge Fromentin and yourself on the 24th ultimo, on the subject of his having issued a writ of *habeas corpus* in the case of Colonel Callava, and that I paid the most particular attention to every thing which occurred on that occasion, and that you have correctly stated the substance of that conversation in a letter of this date, which I copied, addressed to Judge Fromentin.

After some remarks made by you in relation to his improper and indecorous interference in a case where your authority was attempted to be set at defiance, and that, too, by force of arms, and while sitting in your judicial capacity treated with contempt, Judge Fromentin did acknowledge that he had acted hastily, without due consideration, and without a proper knowledge of the facts, and that he had issued the writ of *habeas corpus*, having been urged to it by a number of individuals; and, being requested to name them, mentioned Innerarity, La Rua, Brosnaham, and some others; and declared that, had he been informed that you had committed Colonel Callava for contempt of your authority, while sitting in your judicial capacity, the writ of *habeas corpus* would not have been issued; and that, for the future, he should in no way attempt to interfere with your authority and powers.

I have the honor to be, very respectfully, sir, your most obedient servant,

J. C. BRONAUGH.

His Ex'cy ANDREW JACKSON,
Governor of the Floridas, &c.

No. 6.

I have attentively read the foregoing certificate of Dr. J. C. Bronaugh, and, being present during the interview alluded to, do certify that it is minutely and substantially true.

ROBERT BUTLER.

Transactions in Florida—General Jackson.

No. 7.

PENSACOLA, September 3, 1821.

Sir: In compliance with your request that I would explain to you my understanding of that part of the conversation which took place between your Excellency and Judge Fromentin, upon the appearance of the latter before you, agreeably to citation, on the 24th ultimo, relative to these points: whether Judge Fromentin did or did not say that, had he been aware of the circumstances of Colonel Callava's commitment, he would not have issued the writ of *habeas corpus* in his favor, as he had done; and whether he did or did not declare that, in the future exercise of his functions, he would carefully avoid interfering with the lawful subjects of your Excellency's jurisdiction, I have the honor to state as follows: that I was present during the whole of the conversation; and, although neither a retentive memory, nor particular attention paid at the time to the words used by Judge Fromentin, warrant me in referring to them, yet the impression which remains upon my mind, from the conversation above mentioned, is clearly this: that Judge Fromentin, after hearing the act of Congress, one of your Excellency's commissions, and some other documents, read, endeavored, by adducing the peculiar circumstances under which the writ had been issued, to offer something equivalent to an apology for the course he had pursued, and gave your Excellency distinctly to understand that he was determined not to interfere in future with any of the branches of your administration.

I have the honor to be, &c.

E. A. RUTLEDGE.

His Ex'cy ANDREW JACKSON,
Governor of the Floridas, &c.

No. 8.

NASHVILLE, November 12, 1821.

I certify that I was present when Eligius Fromentin, shortly after he had received his commission as judge in West Florida, called upon Andrew Jackson, Governor of the Floridas, &c., with the view of consulting with him (as he stated) upon the nature and extent of the powers with which he (Fromentin) was clothed as judge of the United States. He expressed himself as being absolutely at a loss to discover what duties he had to perform, and desired that Governor Jackson would candidly advise him as to the course he ought to pursue. The Governor, in plain and friendly language, told him that the only United States laws extended to the Floridas by the act of Congress were the laws regulating the revenue and prohibiting the importation of slaves, and that he therefore believed his jurisdiction could reach no further than to cases arising under those laws. The Governor further told him that, if he could gather any light on the subject from a perusal of his commissions and instructions, they were at his service for perusal; and that, as the executive clerk was then busily engaged, if he would call on some future occasion, he would read him all his powers.

After this conversation Judge Fromentin retired, and accordingly called the next morning; Governor Jackson was at that time engaged, not in his house. The judge retired, and about one o'clock of the same day returned. After some conversation of the same purport with that before stated, the Governor requested me to go for the record book containing his commissions and letters of instructions. I returned with Mr. Connor, the executive clerk, who brought and handed the book to the Governor. The Governor then read his commissions and letters of instructions, and handed the same to Judge Fromentin, with permission to read.

The three commissions given by the President of the United States to Governor Jackson, and containing all his powers and instructions, were before Judge Fromentin, who, after expressing his satisfaction, having read, closed, and returned them, with some remarks which left no doubt upon my mind of his entire concurrence with the view taken of the subject by the Governor, left the room, saying that he "had as well be off to Orleans," there being little for him to do, or words to that effect.

The above detail gives only the substance of the conversation between the individuals named; the undersigned does not certify that he has given the precise language used by them.

ANDREW J. DONELSON,
2d Lieut. Eng. Corps.

No. 9.

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 23, 1821.

Present: His Excellency the Governor.

The order for the discharge of Colonel Don Jose Callava, Domingo Sousa, and Antoine Fullarat, being under the consideration of his Excellency, the same being written, but not issued, Captain Wager, the officer of the day, presented to his Excellency the following communication, viz:

PENSACOLA, W. F. August 24, 1821.

Sir: I have the honor to state that the within paper from Judge Fromentin was handed to and served upon me as officer of the guard stationed at the calaboose on the 23d instant, by a person who I have reason to believe was Dr. Brosnaham, of this place, who stated that he served it as a friend, and who, on being informed that no notice would be taken of the within paper, retired.

Very respectfully, &c.

G. W. MOUNTZ,
Lieut. 4th U. S. Infantry.His Ex'cy ANDREW JACKSON,
Governor of the Floridas, &c.

The within paper was handed, immediately on its receipt, to Captain Wager, officer of the day.

G. W. MOUNTZ,
Lieut. 4th U. S. Infantry.

The United States to Lieutenant G. W. Mountz, of the 4th regiment U. S. infantry, greeting:

You are hereby commanded that you forthwith have the body of Jose Callava, late Governor of

the province of West Florida, now in your custody, as is said, together with the day and cause of his caption and detention, by whatever name he may be known, before the judge of the court of the United States for West Florida, and for that part of East Florida which lies westward of the cape, at his chambers in the city of Pensacola, to do, receive, and submit to whatever the said judge shall consider in that behalf; and have you then and there this writ, with your doings thereon.

Witness, Eligius Fromentin, judge of our said court, this twenty-third day of August, in the year of our Lord eighteen hundred and twenty-one.

I allow this writ:

ELIGIUS FROMENTIN,
Judge of the United States, &c.

Whereupon, it was ordered by his Excellency the Governor that Captain Wager report to Mr. Fromentin that the prisoners were confined for an open contempt of his Excellency's orders and decrees, and that he would keep them confined, agreeably thereto, until released by his Excellency's orders. And his Excellency the Governor issued the following further order, viz:

Eligius Fromentin, Esq. will, forthwith, be and appear before me to show cause why he has attempted to interfere with my authority as Governor of the Floridas, exercising the powers of the Captain General and Intendant of the island of Cuba over the said provinces, and of the Governors of said provinces, respectively, in my judicial capacity as supreme judge over the same, and as chancellor thereof; having committed certain individuals charged with a combination to secrete, and with having attempted to secrete and carry out of the territories ceded to the United States the evidence of individual right to property within the said territories, which has been secured to each individual under the second article of the late treaty with Spain, and in open contempt of the orders and decrees made by me; and that the said Eligius Fromentin, Esq., be, and appear before me at my office, at five o'clock, P. M., in Pensacola, to make known the above cause, and to abide by and perform such order and decree as the undersigned may of right deem proper to make of and concerning the same.

Given under my hand, at Pensacola, this twenty-third day of August, 1821.

ANDREW JACKSON,
Governor of the Floridas, &c.

To Colonel GEORGE WALTON, Secretary of West Florida, to make known and execute the above, and to furnish a copy of the above, if required, returning this original, and in writing make known how he has executed the same.

Under which order Colonel Walton made the following return, viz:

AUGUST 23, 1821.

By virtue of the above order, I have summoned Eligius Fromentin, Esq., personally to appear at the office of his Excellency Major General Andrew Jackson at five o'clock this afternoon, and, at his request, have furnished the said Eligius Fromentin with a copy of the order, certified

under my hand as Secretary of West Florida; and the said Eligius Fromentin, in answer to the said summons, declared his perfect willingness to obey this and every other order of his Excellency the Governor; but asserts that he is unable, through indisposition, to attend this afternoon, as above he is required.

GEORGE WALTON,
Secretary of West Florida.

Whereupon, it is ordered by his Excellency that further time, till to-morrow afternoon at three o'clock, be given to the said Eligius Fromentin to appear and show cause as above he is required:

OFFICE OF EXECUTIVE OF FLORIDA,
Pensacola, August 24, 1821.

In obedience to the orders of his Excellency the Governor, Judge Fromentin appears and acknowledges that he granted the writ of *habeas corpus* without the affidavit of any person, and that it was granted upon the verbal application of a number of individuals; and, upon being questioned as to the individuals who made the application, named La Rua, Innerarity, Brosnahan, and Father Coleman. Upon being asked to whom he delivered the writ to be served upon the officer who had in custody Colonel Callava, he replied that he delivered it to one of the persons who made application for it, but to which he does not know.

ELIGIUS FROMENTIN.

NOTE.—The word *verbal* interlined in the original by Judge Fromentin.

Whereupon it was ordered by his Excellency that the said Eligius Fromentin be dismissed without day, &c.

V.—*Papers left at the Department of State by Dr. Bronaugh.*

No. 1.

Lieutenant Mountz to Governor Jackson.

PENSACOLA, September 24, 1821.

SIR: In compliance with your order of the 22d instant, I have the honor to make the following detail of facts which transpired on the night of the 22d of August ultimo, all of which came under my immediate observation: About seven o'clock on the evening above mentioned, I was detailed to take command of a guard of twenty men, with orders to report to your Excellency, which I accordingly did; and, after receiving written instructions from you, proceeded, in company with Colonel Butler, Dr. Bronaugh, and Judge Brackenridge, to the house of Colonel Callava, the late Spanish Governor. On my arrival at the outer gate of his residence, I brought my guard to a halt; admittance was demanded by some one of the gentlemen above named, but no response was made; upon which the bolt or latch was removed, and we entered. When we reached the dwelling, admission was again asked for, in the name of the Governor; but no reply was made from within. A few minutes after this reiteration, some one stated that entrance might be

gained at the other side of the house. I then marched my guard round, and took post in front of the house; Colonel Butler, &c., also went round and ascended the stairs to the piazza, where a number of persons were sitting. The darkness of the night prevented me from distinguishing who or what they were, there being no light, apparently, in the house. After a candle was procured, I was ordered, with my guard, into the house. Colonel Butler soon after informed me that Colonel Callava refused to deliver up the papers which your Excellency demanded of him, and requested me to put the orders I had received into immediate execution. I accordingly told Colonel Callava, through Judge Brackenridge, that his refusal to comply with the aforesaid demand compelled me to consider him my prisoner. He replied, through the same organ, that he would go with me as a prisoner, but represented that he was very unwell, and that I would be accountable for taking him from his sick bed at that time of night. I rejoined that I had no discretion on the subject, being in the discharge of my official duties. He then dressed himself, and, after proffering me his sword and cane, (which I refused,) proceeded with me to your Excellency's office, where I delivered him up. Before leaving the house, a corporal and three men were left, by order of Colonel Butler, to prevent any person from passing in or through the house. After the fulfilment of your Excellency's order to convey Colonel Callava to the calaboose, the guard under my command was dismissed. Nothing indecorous or improper, on the part of the guard, or of any of the gentlemen commissioned by you, or of other persons, took place during the evening, to the best of my knowledge.

With respect to the occurrences of the succeeding day, (23d,) I have to state that I was officer of the guard, at the calaboose, on that day; and that, on the receipt of the order to release Colonel Callava, I handed it to his secretary, who, after conveying the contents to Colonel Callava, said that he wished Judge Fromentin to be sent for, in order that he might accompany him to his house, (for what purpose I know not.) He was told that the Judge was sick, and could not come, but that some justice of the peace would answer as well. What reply he made to this, I am not able to say; he soon after left the prison in company with the officer of the day and a number of Spanish officers.

This statement comprises all the information on the subject which I am possessed of.

Given at Pensacola, West Florida, this 24th day of September, 1821.

I am very respectfully, sir, your most obedient servant,

G. W. MOUNTZ, *Lieut. U. S. A.*

His Ex'cy ANDREW JACKSON,
Governor of the Floridas, &c.

True copy: J. C. BRONAUGH.

No. 2.

Captain Dade to Governor Jackson.

PENSACOLA, WEST FLORIDA,
September 25, 1821.

SIR: In compliance with your request, made to me this morning through Colonel Walton, I have the honor to state, that, on the 22d ultimo, Domingo Sousa, a Spanish officer, was delivered to me, then the officer of the day, as a prisoner, by your Excellency, with written instructions to keep him in custody until he should produce, or cause to be produced and delivered, to the alcalde, certain documents and papers therein enumerated. That I went with Domingo Sousa to see Colonel Callava, in whose possession he said the papers were, and to whom he wished to apply for them. We found him at the house of Colonel G. M. Brooke, in company with Mr. Innerarity and several Spanish officers. He was informed that Domingo Sousa was a prisoner in my custody; the instructions given me were produced, and his secretary, Lieutenant Cruzat, explained them. Colonel Callava, having directed Domingo Sousa to put on the uniform and surrender himself prisoner, said, as well as I could understand from Lieutenant Cruzat, that he (Domingo Sousa) was an officer acting under his orders, and that any papers your Excellency might want must be required of him, as commissioner, when they should be delivered. I returned with Domingo Sousa to the Executive Office, and made report to your Excellency.

I am, respectfully, &c.,

F. L. DADE, *Capt. 4th Infantry.*

His Ex'cy ANDREW JACKSON.

A true copy:

J. C. BRONAUGH.

No. 3.

Affidavits of Scott and Mitchell.

On the evening of the 22d of August, 1821, Mr. Scott and myself were walking on the public square, and, hearing Lieutenant Jackson (adjutant of the fourth regiment) order twenty men to be paraded immediately, with twenty rounds of ball cartridges, we were induced to go up to him and inquire what was the matter. He informed us that he was ordered to have the men immediately before the Governor's house, to await his orders.

The soldiers were placed under the command of Lieutenant Mountz.

Mr. Scott and myself, after the men left the Governor's, followed them to Colonel Callava's; when the party arrived there, they found the gate fastened. It was opened by some one of the party—whom, we do not know. Some persons went up to the door, and shortly after the party were ordered up to the door of Callava's house, and admittance was demanded, after knocking very loud, but no answer was returned. Admittance was then demanded by authority of the Governor, (as we understood, in Spanish;) but not knowing the language, we cannot say any thing positive on this point; however, no answer

was returned. Colonel Butler then ordered the door to be broken down; but, before the order was attempted to be executed, it was reported that the house was open on the other side; the party went round, and we saw on the portico several gentlemen dressed in Spanish uniform, with their side arms on. Colonel Butler asked in Spanish, through an interpreter, where Colonel Callava was; their answer, as translated into English, was, they did not know.

Candles were then ordered to be sent for; but, before they were brought, some of the party went into a room where a candle was burning, and brought it into what might be called the hall.

Colonel Butler then ordered Lieutenant Mountz to send up a party of his men with bayonets; they, with others, went into the room from which the candle was taken, and Colonel Callava made his appearance with his coat off.

Colonel Butler and Dr. Bronaugh then stated, through the medium of an interpreter, (Judge Brackenridge,) that they came for the papers he had promised to deliver, and that they must have them, or take him before the Governor. Colonel Callava (as was interpreted) answered that they might murder him, but he would not leave his room alive; and as to the papers, they might break open the seals and boxes, and take them, but he would not give them up. Colonel Butler and Dr. Bronaugh refused to take them in this way, not having authority to do so, (as they said;) but told Colonel Callava that he might consider himself in duress, and give them up, and they would receipt for them. Some time was consumed in persuading Colonel Callava to comply; but he refused.

Colonel Butler then requested Colonel Callava to go with him to the Governor, stating that he did not wish (as we understood) to have his person outraged, and that he might consider force as applied; but Colonel Callava still refused, (as we understood,) declaring that he would not leave his room alive (as it was interpreted.)

It is but justice here to remark, that every indulgence and consideration was extended to Colonel Callava that the nature of the case could justify.

Colonel Butler then ordered Lieutenant Mountz up into the room, and reported to him that Colonel Callava had refused to deliver up the papers. On receiving the report, Lieutenant Mountz told Colonel Callava he was his prisoner, and must go with him to the Governor. Colonel Callava put on his coat and went. We did not see any of the enclosures torn down, nor did we hear either of the gentlemen of the commission say they would send Colonel Callava to jail.

ALEXANDER SCOTT, JUN.
J. C. MITCHELL.

WEST FLORIDA, Pensacola, ss.

Personally appeared before me, the undersigned, J. C. Mitchell and Alexander Scott, jun., who made oath that the above statement is true, to the best of their knowledge and belief.

H. M. BRACKENRIDGE, *Alcalde*.

True copy: J. C. BRONAUGH.

Continuation of the statement of Alexander Scott, Jun., and John C. Mitchell.

Colonel Callava went with the party to the Executive Chamber, where we found Governor Jackson sitting in his judicial capacity. Colonel Callava was received with every mark of respect. Immediately on his entrance, the Governor requested him to be seated, and informed him that he had received official information that certain papers relative to the rights of individuals to property in this Territory were seen in the possession of a certain Domingo Sousa, who had declared that he had delivered them into the hands of Fullarat, (his steward,) and that it was incompatible with the treaty between Spain and the United States for any one to withhold from the American authorities any papers relating to the property of individuals in this Territory, or words to that effect.

Colonel Callava requested permission to write an answer in Spanish, which was granted by the Governor. Whereupon, Colonel Callava began to protest against the powers of the Governor to call upon him in this way, asserting what he considered his privileges as a Spanish commissioner, &c., (as we understood from the interpreter.) Governor Jackson then declared he would not recognise him in any other light than that of a private individual; and required him to answer whether the papers alluded to were, or were not, in his possession. Colonel Callava then requested that his secretary might be permitted to write down his answer, which was granted. He again commenced dictating a protest to his secretary, as we understood from the interpreter. Governor Jackson immediately declared that such a course was inadmissible, and that he must answer positively whether or not the aforementioned papers were in his possession. Colonel Callava positively refused to answer unless permitted to do so in his own way.

The Governor was then about to commence the examination of Fullarat, when Colonel Callava (as we understood from the interpreter) objected to his being examined, on account of his minority; the Spanish law requiring a person to be twenty-five years of age before he is *legalis homo*; which objection was overruled, and Fullarat, on his examination, admitted that boxes containing the aforementioned papers were delivered to him by Sousa, and were then in Colonel Callava's house.

The Governor then stated to Colonel Callava that he would send an officer, with such other person as Colonel Callava might designate, to bring the boxes containing the aforesaid papers, and that they could be taken out in his presence; which, after being done, he would dismiss the whole of them. But Colonel Callava refused.

The Governor then committed Colonel Callava, Sousa, and Fullarat to the common jail.

It is not true, as stated, that the Governor snatched away papers out of the hands of Colonel Callava.

ALEXANDER SCOTT, JUN.
JOHN C. MITCHELL.

WEST FLORIDA, *Pensacola, ss.*

Personally appeared before me, the undersigned, Alexander Scott, jun., and John C. Mitchell, who, after being duly sworn, declared the above statement to be true, in substance, to the best of their knowledge and belief.

H. M. BRACKENRIDGE, *Alcalde.*

A true copy : J. C. BRONAUGH.

No. 4.

Affidavit of John Coppinger Connor.

In compliance with the request of Major General A. Jackson, Governor of the Floridas, &c., I proceed to give my statement of facts as they occurred on the evening of the 22d of August last.

Being at that period engaged in the office of the Governor, I was present when Domingo Sousa was brought before him to answer for a contempt of his orders, in refusing to deliver up certain papers which had been demanded of him; and, on being interrogated, he stated that the papers in question had been handed over by him about eleven o'clock that morning to Fullarat, the major domo of Colonel Callava, at the Colonel's house; that said papers related to property in this country and in Louisiana; and that the said papers were then in the house of Colonel Callava. The Governor told him that he would permit him to go to Callava's house, accompanied by Captain Dade, in whose custody he was, and that, if he procured and delivered the papers, he should be dismissed; otherwise, he must stand committed. He replied, that a Spanish officer could not be put in prison; when the Governor told him, with considerable warmth, that the papers he would have, and that he would commit Sousa, Callava, and all concerned, for seven years, or until the papers should be forthcoming. These occurrences took place in the forenoon of the 22d August.

I was not a witness to any thing which followed, until Colonel Callava was brought before the Governor, on the night of the 22d. About the hour of ten o'clock he appeared at the Executive Office, accompanied by his secretary, Mr. Cruzat, and several Spanish officers, in full uniform, with their side arms. A seat was handed to Colonel Callava opposite the Governor, who immediately informed him, through the interpreter, that he was brought before him on a charge of having in his possession certain papers which appertained to the rights of individuals, and which papers did of right belong to the office of the alcalde, and could not properly be held in the possession of any other person; and handed to Judge Brackenridge a written interrogatory to translate to Colonel Callava, which was in the following words: "Were, or were not, the papers mentioned in a schedule handed to you by H. M. Brackenridge, Esquire, alcalde for Pensacola, delivered at your house this day, by Domingo Sousa, to Antoine Fullarat, your major domo, &c.; if so, at what time of the day?" This question being put, Colonel Callava rose, looked at his watch, and for a moment addressed the audience; then (as was interpreted) asked permission to write his answer himself, which was granted; after writing two or three

words, he asked that his secretary be allowed to write for him, his eyes being weak; which was granted. A gentleman near the Governor observed to him that Colonel Callava was dictating to his secretary a solemn protest against the whole proceedings as a violent measure, and stating that he was a commissioner, &c. He was stopped there, and told that such a course could not be permitted; that he was required to answer directly to the question put—yes or no. The Governor then asked Mr. Cruzat, the secretary, for the paper on which he had been writing, which was handed to him by Mr. C., (not violently snatched or wrested from him,) and the Governor passed it to the alcalde, the interpreter, to put the interrogatory again, and to demand an immediate and direct reply. But he positively refused to reply.

Fullarat was then interrogated, and fully corroborated the statement made in the morning by Sousa, and added that said papers were at that moment in the house of Callava.

The Governor, with considerable warmth, again demanded of Colonel Callava the delivery of the papers, stating, at the same time, that if he would acknowledge the papers to be in his possession, Fullarat and Sousa should be discharged. Colonel Callava objected to the testimony of Fullarat, saying he was a minor, and his servant; and, turning round, addressing the audience in a loud and earnest tone of voice, dwelt for some time on his right as commissioner, &c. When all this was explained to the Governor by the interpreter, he (the Governor) ordered that it should not be named again that he was a commissioner; that he was before the Governor as an individual charged with combining with others to secrete and carry away certain papers, which were the evidence of the right of property of individuals in this country, and which papers were alleged to have been stolen from the office of the alcalde, they having been missing from said office, and no receipt being on record there for them; that the papers he must and would have; and that, if Colonel Callava persisted in his refusal, it would be considered as a contempt of his authority sitting in his high judicial capacity, and that he must abide by the consequences which would result to him. The Governor several times cautioned and warned Colonel Callava of his situation, and called upon his friends who were present to explain it to him. All efforts having been unavailing, and Colonel Callava still persisting in his refusal either to deliver the papers or to answer the interrogatories, except in his own way and as commissioner, after about two hours were spent, the Governor using every exertion to obtain the papers, but in vain, the Governor filled up a blank commitment, which he had drawn in case of necessity, and Colonel Callava, Domingo Sousa, and Antoine Fullarat, were committed to the calaboose.

JOHN COPPINGER CONNOR.

PENSACOLA, September 22, 1821.

Signed and subscribed before me, this 3d October, 1821.

H. M. BRACKENRIDGE, *Alcalde.*

A true copy : J. C. BRONAUGH.

VI.

Governor Jackson to the Secretary of State.

NASHVILLE, November 22, 1821.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th of October, with its several enclosures; and, pursuant to your request, I herewith submit to you the consideration which influenced me in the measures taken in relation to Colonel Don Jose Callava.

By the 2d article of the treaty, Spain was bound to deliver over, with the territories, &c., all archives and documents which relate directly to the property and sovereignty of said provinces; and, in the language of the treaty, "the said archives and documents *shall be left* with the commissioners or officers of the United States duly authorized to receive them."

On the 17th of July possession was delivered to me, by the Spanish commandant, Don Jose Callava, of the provinces, fortifications, &c., together with what he represented to be all the archives and public documents relating to the property and sovereignty of the soil, and which by the treaty he was bound to deliver.

On the 21st of August, I received a note from the alcalde of the city of Pensacola, in which he states, "I learn, from the most satisfactory evidence, that a number of documents relating to estates in this place, and to suits instituted here, are in the possession of an individual of the name of Domingo Sousa. These papers properly belong to this office, but were not included in the inventory delivered by the late Governor. Some of the circumstances attending the affair are of a peculiar nature; but as the necessity for obtaining possession of the documents is urgent, I must defer making a report respecting them to some other period. At present, I must request your Excellency to authorize some one to make a regular demand of the said documents, and to ascertain precisely what they are."

Upon this information, I immediately issued a commission to my secretary, Colonel George Walton, and associated with him Henry M. Brackenridge and John Miller, Esqrs., directing them to proceed to the house of said Domingo Sousa, and to make a demand of such documents as ought to have been delivered under the treaty.

The demand being made by the commissioners, pursuant to their instructions from me, they returned, and delivered to me, in answer thereto, a letter from the said Domingo Sousa, in which he admits there are in his possession certain papers boxed up, which had been delivered to him for safe keeping by Colonel Callava.

The first effort to obtain from Sousa the papers sought for having failed, the application and demand was reiterated by the same gentlemen, under my order. They say to him, "We do not claim any papers in your possession, or that of any other, relating to the military tribunals, or to the revenue of the Spanish Government; but we are certain that no individual, no matter what office he may have held under the Spanish Government,

has any right to retain possession of archives and documents which relate directly to the sovereignty and property of this province, &c.; and we again make a positive demand of the papers mentioned in your note of yesterday, to wit, the documents in the case of Don Nicolas Maria Vidal and Eugene Sierra; also, a proceeding against Manuel Bonfay and Carlos de Ville, and the documents in the case of Peter Guilkes and Tomas Villaseca. These papers are known to be in your possession, and we demand to know by whose authority, as no person has the right to authorize you to detain them."

Upon the second demand, the aforesaid commissioners reported to me that Domingo Sousa had exhibited to them certain boxes of papers for examination, and that, among them, were the papers before enumerated; papers by which the right of individuals (some of whom were orphans) to a property of great value in the Floridas could alone be established; papers which, being indispensable to the establishment of right and title to property in the Territory, ought to have been delivered over with the archives and public documents, as by the treaty Spain had stipulated, and the Spanish commandant was bound to do. Sousa, however, refused to deliver them, and returned them to the house and keeping of Colonel Callava, from whom he had received them. If the papers related to the property and sovereignty of the soil, Colonel Callava had no more right to detain them than had his subaltern Domingo Sousa. His functions having ceased by the delivery of the province, he stood, in relation to our Government, in the same capacity that any other *private* individual would have done. He owed the same obedience to the laws, and was subject to the same punishment for an infraction of them.

That I have never considered Colonel Callava as clothed with any diplomatic powers from the Government of Spain, is, as you have inferred from my letter, most certainly true; because he had not only never exhibited to me any credentials or testimonials vesting such powers in him, but, on the contrary, when I proposed to him a reciprocal exhibition of our respective authorities, he waived the ceremony. In a letter to me of the 19th of June, to which I refer you, he remarks: "I repeat the assurances I have made you in other communications, of my being furnished with orders, under the same treaty, to evacuate this province, and give possession of it to the commissioners or officers of the United States lawfully authorized to receive it." "Your Excellency expresses also a wish that I would concur in fixing a day, as early as possible, and to suit the mutual convenience of both parties, for an interview and exhibition of our credentials. In reply, I have the honor to acquaint your Excellency that in your quality of commissioner you may, when it suits your pleasure, and in the manner you may deem most expedient, exhibit your credentials to me as the existing commandant of the province. And I have already told your Excellency that I am authorized to enter into arrangement for its being evacuated by His Catholic Majesty's troops, and

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delivered to your Excellency, agreeably to the stipulations by our respective Governments."

From the foregoing extract, you will be convinced I never could have considered Colonel Callava as possessing any powers in regard to the treaty but such as he derived from the Captain General of the Island of Cuba, and, by virtue of his office of Governor of West Florida. Nor can you fail to draw the conclusion that Colonel Callava did not consider himself competent to the exercise of any other powers, duties, or privileges, under the treaty, than those enumerated in his letter to me, to wit, the evacuation of the province, and the surrender of it to the American authorities; and even these he did not claim to exercise as commissioner, but says "you may exhibit your credentials to me as the existing commandant of this province," in which capacity "I am authorized to enter into arrangements for its being evacuated by His Catholic Majesty's troops, and surrendered agreeably to the stipulations of the treaty." It had been reported to me by Colonel Forbes, the American agent charged with the delivery of the royal order to the Captain General of Cuba, that he had arrived at Pensacola on the 9th of June, accompanied by Don Alva, the Spanish commissioner for delivering the provinces of East and West Florida to the American authorities appointed to receive them. This information I communicated to Colonel Callava; and, for the considerations growing out of it, I proposed to him, as I have before stated to you, a reciprocal exhibition and recognition of our respective credentials. This he declined, as you have seen. I then plainly foresaw that he wished to draw me into a delay of the time for the delivery of the country; for, if I had refused to recognise him as the agent authorized by the Captain General of Cuba to make the transfer, I must either have submitted to a tedious, embarrassing, and injurious procrastination of the surrender of the provinces to the United States, or have been driven to the necessity of taking it by force. And as there was no express stipulation for a formal delivery, I deemed it better to receive the Territories of him, as the agent of Spain, acting under orders which he professed to have received, than to submit either to the delay which must otherwise have ensued, or to resort to force to obtain that for my Government which Spain was bound, by all good faith, under an existing treaty, to put into its possession amicably and without delay. Having viewed Colonel Callava, then, merely as an agent, invested with no other powers than a surrender of the province and a withdrawal of the Spanish forces, I regarded him, in the consummation of these duties, as entitled to all the privileges and immunities guaranteed to such agents by the laws of nations; but, sir, the moment the surrender was made, and the soil and sovereignty of the Territories became vested in the United States, my duties as commissioner ceased, and my functions as Governor commenced. He, too, having accomplished all that had been assigned him to do, was bound, by the express stipulations of the treaty, to have withdrawn himself from the ceded province. Neglecting so to do, no

other privileges could appertain to him than such as attach to every individual.

"The faith of treaties," says Vattel, "is holy and sacred between nations, whose safety and repose it secures; and he who violates it, at the same time violates the laws of nations. And if the people are true to themselves, infamy will ever be the fate of him who violates his faith."

By the second article of the treaty which I have before quoted, all archives and documents relating to the property and sovereignty of the country ceded were to have been delivered with the Territories. I would ask, then, were not the papers which were secreted and attempted to be carried away (and which were the cause of his imprisonment) of the description contemplated, and expressly provided by the treaty to have been delivered? Did they not appertain to the private property of the ceded country? Were they not in themselves private property? If so, was not the attempt to carry them away not only a flagrant violation of the treaty, but a larceny upon the individuals whose property they were, and from whom he was clandestinely taking and carrying them off? And, sir, as a proof that the papers were of the description contemplated by the treaty to be left in the province, and that Colonel Callava intended to carry them out of the country, permit me here to make an extract from the deposition of Mercedes Vidal Palao, taken before Henry M. Brackenridge, Esq., alcalde of the city of Pensacola. She testified "that her father, Nicolas Maria Vidal, left her by his will one of his heirs, and that he died about the year 1806, possessed of a large real and personal estate; that the will of her father, with the inventories of his real and personal estate, has been for several years missing from the public archives of Pensacola, having been by some person unknown withdrawn from the same; that repeated applications were made by her to the authorities then existing there to compel the restoration of the said papers and documents, as they were, and still are, necessary to enable her to prosecute her said claim under the said will; that the said papers were finally restored under a decree." The deponent further states that, "a few days before the change of Government, she demanded them of Colonel Callava, who informed her that he could not give them up, as he was obliged to take them to Havana." The deponent further states that said papers relate to property in this country and Louisiana.

Inasmuch as treaties contain promises that are perfect and reciprocal, if one of the contracting parties fail in his engagements, the other may constrain him to fulfil them. If this is a clear principle of national law, the right to imprison the Spanish agent would not be in the least affected by the termination or continuation of his immunities as agent; nor will the right of the United States to compel Spain to a faithful execution of the treaty be disputed. If, then, Spain was liable so to be coerced, how much more is he subject to such compulsion who is merely her agent; an agent, too, in whom we are bound to believe she reposed the most implicit confidence; one to whom

she had intrusted, and from whom she expected, a faithful and honorable discharge of the high obligations she had assumed with the United States?

I have thus, sir, gone through the principal considerations which governed me in the imprisonment of Colonel Callava, and have added a few of the facts that made this course indispensable; from all of which you will perceive that, in all my intercourse with him, I have viewed him in no other, nor could I view him in any other, light than that of military agent of Spain, appointed by the Captain General of Cuba to deliver over the province, and all things appertaining thereto specified by the treaty to be delivered; which duty being complete, his immunities of exemption from the ordinary process of law immediately ceased. Admitting that he had received any diplomatic powers from his Government, his obstinate refusal to exhibit them precluded me from the possibility of appreciating them. Letters of credence are the instruments which authorize and establish a Minister in his character; and, whether he be considered as Minister or agent, he could only be received in the quality attributed to him in his credentials. "But," says Vattel, "a more particular protection is due to agents than to other foreigners or citizens, and some regard in consideration of the Prince whom they serve." This regard was most punctiliously observed towards Colonel Callava, until the termination of his immunities as agent; after which, in his private capacity, he violated the treaty, the laws of nations, and the sacred privileges and rights of individuals entitled to the protection of the United States, and over whom I had been placed to administer the laws; to secure justice to whom it had now become indispensably necessary to punish him for his perfidiousness, and for his contempt of my judicial authority.

The time limited by the treaty for the delivery of the country, and the withdrawal of the Spanish officers and troops, had expired; and his pretence that he remained to await the decision of the two Governments in relation to the artillery, is a vile subterfuge, which claims no consideration or remark. His being permitted to remain was a mere act of courtesy, extended to him as a military officer of the Spanish Government.

In my letter to you of 26th August I remark, Colonel Callava's powers having ceased here with the surrender of the country, it was only a display (and so considered by me) of pompous arrogance and ignorance in his claiming the privileges of diplomacy, which, in fact, he never possessed; and his power having ceased, his commission accomplished, the pretence which he set up was an insult to the meanest understanding.

Having, as I hope, explained to your satisfaction that, at the time of Colonel Callava's imprisonment, he could claim no exemption from civil process by virtue of any commission he then held under the Spanish Government, and believing, too, that I have clearly explained and proved to your satisfaction that he never did exhibit any credentials, which alone could have entitled him to the privileges and immunities of a commissioner,

I shall proceed to explain some other points to which you have directed my attention. It is alleged by Colonel Callava, as well as by Mr. Salmon, that it was necessary Colonel Callava should continue in Pensacola, because the cannon belonging to the fortifications were reserved for future negotiation between the two Governments, and that, in the mean time, they were kept under his (Colonel Callava's) care. I would ask you, sir, how could Colonel Callava exercise any care or keeping over them? They had formally been delivered over to, and receipted for by me, and the Government of the United States made responsible to the Spanish Government for all that had been delivered, to await their respective decisions. Mr. Salmon, as well as Colonel Callava, has asserted what, in this respect, is not the fact. The language of Mr. Salmon, throughout, is exceptionable and insolent; but he claims this privilege, on this occasion, because "His Catholic Majesty had determined to give a new pledge, among many others, of his particular regard for the interests of the United States, in the permission which he has granted them of keeping in Mahon a deposite of provisions and naval stores, which they may introduce free of duties." Then, according to Mr. Salmon's rule of estimating favors, because His Catholic Majesty has granted this permission to the United States of introducing provisions and naval stores into Mahon free of duties, the United States ought, on her part, to have permitted His Catholic Majesty's officers to transport from without the United States any archives and documents which they might have chosen to secrete, free of molestation.

The allegation that I had, nineteen days before his imprisonment, written him a letter, acknowledging his commissarial character, is unfounded, and cannot be sustained by any proofs he can adduce. I did write him a letter on the 3d of August, remonstrating against his conduct in withholding a receipt which he had previously solemnly stipulated to give; and which, according to his arrangement with me, was to have been given on the 17th of July, the day on which the province was surrendered to the United States. In consideration of his leaving the ordnance in the fortifications, I agreed to supply, and did supply His Catholic Majesty's troops with provisions to subsist them to the Havana, and furnished transportation for their civil officers, families, and servants, and for the families and servants of the military officers; all of which was not stipulated to be furnished by the treaty, but for which we were to pass mutual receipts, and leave them for the future settlement of our respective Governments. These receipts were to have been reciprocally interchanged on the 17th of July, as above; but on that day he pleaded indisposition, and, on his sacred pledge of honor, I indulged him until that indisposition should be removed. I repeatedly called on him, through Major Stanton of the United States army, for a fulfilment of his agreement, (having on my part receipted for the cannon on the 17th of July.) I now ordered Doctor Bronaugh to accompany Major Stanton, and demand the

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receipt; and directed them to inform him, distinctly, if he did not then comply, I would report the same to my Government, and that the receipt I had given him for the ordnance should be considered null and void, inasmuch as the condition upon which it was given had failed by his refusal to receipt to me for the provisions and transportation furnished by the United States. 'I complained to him, in my letter of the 3d of August, of his signal breach of faith, in thus evading, on the plea of indisposition, the performance of a stipulated promise, which was to have been consummated on the 17th of July, before the surrender, "but which he afterwards refused to fulfil at all." I expostulated with him for his infidelity in thus violating his pledge of honor wantonly and corruptly, in first failing in, and afterwards refusing to perform that which he was bound in honor and by the most sacred agreement to have performed, but which he was permitted to delay until his alleged ill health should be restored.

You will therefore clearly perceive, sir, that this letter merely refers to what was agreed to have been done on the morning of the 17th of July, whilst his official capacity as agent aforesaid existed, and not to any thing which occurred after that day.

It is alleged that I did not call officially upon Colonel Callava to deliver the papers; to this I would reply, that our official correspondence had, of necessity, ceased by the termination of his powers as agent, and by the expiration of the time limited by the treaty for the delivery of the country. Sitting as the representative of my Government in my judicial capacity, administering laws that know no distinction between the rich and poor, the great and ignoble, I could not extend to him any privileges or indulgence which the laws did not guaranty; nor could I debase my representative character, or the majesty of those laws, by such a condescension, to gratify the vanity of a Spaniard, charged with being engaged in a fraud upon the rights and property of individuals living within the immediate limits of my jurisdiction.

The misinterpretation of which he complains will be explained, by the documents submitted to you, to be a falsehood, invented and propagated by himself. Indeed, his protest throughout is a tissue of wilful and corrupt misrepresentations and falsehoods, and, being sworn to, are absolute and premeditated perjuries, of which I feel no hesitation in believing you will be thoroughly convinced by a perusal of the evidence already forwarded to you, and of that which accompanies this communication.

In conclusion, permit me to request you, sir, to call on Mr. Salmon for the *originals* of his *faithful* documents. If they appear in the form of affidavits sworn to, they are forgeries, or John Innerarity has perjured himself, as you will see from his deposition, which I have forwarded to you, and to which I would on this point particularly refer you. With sentiments, &c.,

ANDREW JACKSON.

No. 1.

Affidavit of H. M. Brackenridge.

About ten days after the delivery of this province, I was applied to by a free woman of color, of the name of Mercedes Vidal, natural daughter of Nicolas Vidal, formerly the auditor or judge of this place. She informed me that her father had made a will, leaving his real and personal estate to herself and sisters; that it consisted of lands at Baton Rouge, and moneys in the hands of John Innerarity, of this place, as the representative of the house of John Forbes & Co.; that the lands had been fraudulently and illegally sold, and that the money and personal property were unaccounted for. She at the same time placed in my hands a record of a proceeding to compel the restoration of the will and testamentary papers, which had been taken from the office for some time before 1817, and were alleged to be in the hands of Innerarity, who, it appeared, had at length, after seven petitions, and many decrees, been compelled by the late Governor to restore them; which proceedings also contained two decrees, signed by Colonel Callava, annulling the sale of sixteen thousand acres of land at Baton Rouge, and ordering Innerarity to pay between \$6,000 and \$7,000 into the National Treasury, being a deposit in his hands of money belonging to the estate. On inquiring of Mercedes Vidal by what means these papers had been taken out of the office, she said it had been done by a friend of hers, in a clandestine manner; that, as the other papers would be taken away, she thought herself justifiable in doing so for her own security. On inquiring of the clerks who had been employed in the alcalde's office, they informed me that they did not know what had become of the testamentary proceedings, and could not tell in whose possession they were at that time; a few days after, I was informed by Mercedes Vidal they were in the possession of Colonel Callava, and that she had obtained permission to take them in separate pieces, in order to have them copied, but under the injunction that they should be placed in the hands of a confidential person. She accordingly obtained one of the pieces, and brought it to me; it contained the original will, the inventories and sales of the personal property. I then learned that they were not in the actual possession of Colonel Callava, but in the custody of a person of the name of Sousa, who had formerly been a clerk in the office. The first piece thus obtained was returned, and three others obtained from Sousa, and all exhibited to me, and a note taken of them. The latest proceedings were in 1810, on which there appeared a decree against the house of Forbes to pay a large sum of money in their hands as a deposit, which had not been complied with; but, from that time until 1817, nothing appeared to have been done. I was satisfied that the papers were such as ought to have been delivered under the second article; and the unexecuted decrees could produce no other conviction in my mind than that the papers were necessary to enable the

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heirs of Vidal to prosecute their right of property in this country.

Being at a loss myself what course to pursue, considering the connexion of Colonel Callava in the affair, I communicated it verbally to the Governor. He replied that, if I had sufficient proof to warrant it, an application made to him in writing should be attended to. On this I filed the petition, which will be seen by reference to the proceedings. The order was then issued to Colonel Walton, Colonel Miller, and myself, to proceed to the dwelling of Sousa, and to make a demand of the papers before mentioned, and of such others as ought to have been delivered to us under the treaty. We accordingly waited on him, and, when the demand was made, he appeared to be somewhat confused; declared that he had papers in his possession, but had no control over them, as he was the mere keeper of them for Colonel Callava. He produced two open boxes, which he permitted us to examine; with the exception of the papers enumerated in the list which was made by me, the boxes contained nothing but proceedings in courts-martial, trials of soldiers, &c., and a few unimportant admiralty proceedings, but without anything else relating to the property of the province. A demand of the papers was then made in writing, on which Sousa refused, for the reasons before stated. According to our instructions, the refusal was reported to the Governor. In the evening of the same day, Sousa informed Colonel Miller that he had waited on Colonel Callava to receive his instructions; that he had been absent from town the greater part of the day. He then delivered us a note, signed by himself, in answer to our written demand, which note we presumed had been dictated by Colonel Callava. The order was then issued on the following day for the sequestration of the papers demanded of Sousa, but which in the mean time had been conveyed to the house of Colonel Callava.

According to the instructions to Colonel Butler and Colonel Miller, Domingo Sousa was summoned to appear before the Governor, to answer interrogatories. He accordingly accompanied us, and entered the office about one o'clock. The examination which appears in the proceedings took place, in which he acknowledged the fact of the papers having been taken to the house of Colonel Callava. The officer of the day, Captain Dade, who had the charge of the prison, was sent for, and ordered to take Sousa into custody, under a commitment; but he was instructed to treat him with every possible indulgence, and Sousa was permitted to go to Colonel Callava, in company with Captain Dade, and inform him of his situation; that if the papers were restored to him, he would be set at liberty on delivering them to such persons as the Governor should appoint. Sousa accordingly went, and returned with Captain Dade about three o'clock, who reported that they had found Colonel Callava dining at Colonel Brooke's; that Sousa had had an interview with him, the result of which was, that the papers would not be delivered to Sousa. The order directed to Colonel Butler and Dr. Bronaugh was

then made out, and about half after four o'clock we proceeded to the house of Colonel Callava, which is situated a few doors below that of Colonel Brooke. We were informed that he was not at home; that he had not returned from the dinner party. We then proceeded down the street, and in about half an hour returned, when, on inquiry at the gate, we received the same answer as before. It was then determined that I should go to Colonel Brooke's, and request Colonel Callava to step to his house, as there were some gentlemen there who wished to speak to him on business of importance. I accordingly went, and found a number of gentlemen sitting in the dining room, and in the porch fronting the bay, after having risen from dinner; Mr. Cruzat, the Governor's secretary, was called out at my request, who immediately anticipated the object of my errand, and in a passionate manner called to Colonel Callava, who came instantly, and began with warmth to assert his rights as commissioner of Spain, and to talk of the laws of nations. They soon after withdrew, together with the Spanish officers. In the mean time, Colonel Butler and Dr. Bronaugh had come to the gate, and, on being invited by Colonel Brooke, stepped in, just as the Spanish officers and Colonel Callava were going out. After remaining in the yard but a few minutes, we all returned and proceeded to Colonel Callava's house, and entered the back porch, where these gentlemen had just had time to be seated. I introduced Colonel Butler to Colonel Callava, and, after some commonplace conversation, Col. Butler then directed me to state the object of our visit. This was fully explained to him by me, in presence of his secretary and interpreter, and of Mr. Innerarity, all of whom were well acquainted with the Spanish and English languages, and who occasionally assisted. The utmost delicacy was observed by Colonel Butler, but Colonel Callava expressed himself in a very vehement and passionate manner, being naturally of a choleric temper. An hour, at least, was taken up in this conversation; every thing was fully explained; the written order from the Governor, containing a specification of the papers, the declarations of Sousa that they had been delivered to his steward, and repeated demands were made of them. He insisted on his alleged rights as commissioner; he said, if the papers were demanded of him in that capacity, or as late Governor, and by writing, he would reply. He said he did not know that the papers were in the boxes; that Sousa was only his servant in the affair; that he was responsible; that the papers were in his possession in the capacity of late Governor, and not as an individual.

After every effort was made, without success, to obtain the papers, the part of the order requiring him to appear before the Governor to answer interrogatories was explained. When this was made known, Mr. Innerarity exclaimed "the die is cast!" and Colonel Callava positively refused. He was told by Colonel Butler that his conduct would be considered as setting the authority of the Governor at defiance. He said that such was not his intention, but that he could not be proceeded

against as a private individual. When we were about to withdraw, he said that, if Colonel Butler would deliver him a list of the documents, and they should be found in the boxes, they would be delivered. This was interpreted aloud by me to Colonel Butler and Dr. Bronaugh, and in the presence of the persons before mentioned; if there was any mistake, it most probably proceeded from Colonel Callava, who omitted to add the words he had so often repeated before, if demanded of him as commissioner, or late Governor. We then withdrew, and in about a quarter of an hour I returned with a list of the papers headed as appears in the proceedings. I found Colonel Callava surrounded by a number of his friends, making unusual preparations, packing up boxes; and he said to me, himself, that he was making out a protest against the proceedings, and taking such precautions as would be taken by a person who expected every thing he possessed would be forcibly carried away. He talked of his papers, and effects, as if he thought he was about to be deprived of every thing. On presenting him the list, I informed him that nothing was wanted except the few papers therein specified, which could be found in ten minutes if in the boxes; that Colonel Butler and Dr. Bronaugh would return in two hours, and then expect to receive them. He said that the paper must be translated, and, if the demand was made of him as commissioner, and in a proper manner, he would give an answer. The list was left with him, and I reported the circumstance to the Governor.

About nine o'clock, accompanied by a guard, Colonel Butler, Dr. Bronaugh, and myself went to the house of Colonel Callava. Leaving the guard at the gate and in the street, we entered the garden in front of the house, after removing the bar by which the gate was fastened. The house was shut up; the door locked. On our entering the porch, we heard a bustle inside resembling the rattling of arms. Admittance was three times demanded by me in Spanish, but no answer was returned. I then went round, and discovered several persons in the porch on the side fronting the bay. The guard was ordered round, and formed in front of high steps which lead up to the porch; they had a short time before been ordered into the garden, and had been drawn up before the front door. On ascending the steps, inquiries were made for Colonel Callava; they all remained silent: on the question being repeated, it was observed by some one that he did not know. The only light was a candle burning in one of the rooms. Colonel Butler ordered a candle to be brought from some of the neighboring houses. After waiting fifteen minutes, it was resolved to enter the hall, and some one brought out the candle. Two or three of the soldiers were then ordered up; we then entered the room where the candle had been burning, and Colonel Callava rose from a bed, with his coat off, and expressed great surprise at our entering his house at that time of night. The papers were then demanded of him, as is stated in the report of Colonel Butler and Dr. Bronaugh. He persisted in the same reason which he

had before repeatedly alleged. Every possible means was used to induce him to surrender the papers; the boxes containing them were in view, and he was told that if he would break them open we would take them. He was at length told, that, having refused to deliver the papers, he must go before the Governor, who was then sitting in his office and waiting our return. He at first said that he might be assassinated or murdered, but that he would not leave his house alive. Colonel Butler told him repeatedly that he might consider himself as taken forcibly from his house, and hoped he would not render it necessary to use actual force. It was impossible to have used greater delicacy to any one under similar circumstances. When the guard was at length ordered up, and the officer ordered to take him into custody, he consented to go; more than half an hour having passed from the time of our entering the house.

On entering the Governor's office, he was invited to take a seat, which he did at the table, fronting the Governor, while I was seated at one end of it, in the capacity of interpreter. The Governor then requested me to say to Colonel Callava that he was brought before him to answer interrogatories touching certain papers which had been delivered at his house by Domingo Sousa, in boxes, according to the confession of Sousa; and a list of the papers was read. This was fully and faithfully interpreted to him, in the presence of Mr. Rutledge and Mr. Cruzat, the secretary of Colonel Callava, both of whom understood the Spanish and English languages well. Callava on this rose, and, looking at his watch, said it was then ten o'clock; that at that hour he had been violently taken from his house; that he protested against the proceeding; that he was a commissioner of Spain, and was not answerable as a private individual. When this was interpreted, the Governor declared that he would hear no protest against his authority while sitting in his judicial capacity; that he could not know him as commissioner; and then ordered me to propound the question set forth in the proceedings, and which he had just written. Colonel Callava repeated, in substance, what he had said before, but with more prolixity and warmth; after some time passed in this way, he said he would yield to compulsion, but would answer only in his own language, and in his own way. When this was granted, he began to write, and, after writing a few lines, complained that his eyes were weak, and requested that his secretary might write; which was granted. He then dictated to Mr. Cruzat something in the shape of a protest, as a preliminary, as I understood, to his answering the question. After writing five or six lines, it was observed by H. Bigelow, Esq., who happened to be standing near the Governor, that he was dictating a protest. The Governor, on this, with considerable warmth, striking on the table, and addressing himself to me, said, "Why do you not tell him, sir, that I will not permit him to protest?" and which was intended as a reprimand to me for suffering Colonel Callava to proceed in this way, when he was repeatedly told that such

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a course would not be allowed. Colonel Callava then stopped, and his secretary left off writing in the middle of a word. I was now called upon to put the interrogatory, and to say that none but a direct answer would be received. I called upon Mr. Cruzat to assist in interpreting, feeling great anxiety that there should be no misunderstanding, but he declined.

The question was then repeated in the manner I have certified in the proceedings. It was fully and clearly explained to him. Much was said by way of enforcing the question on the one side, and of the objections on the other to answering, all of which I did not consider myself called on to explain; and, in fact, it was not possible; there was considerable warmth on both sides, and there was frequently not sufficient interval between what was said to enable me to convey more than the substance of what was thus spoken by way of argument, while much of it consisted of repetitions. When, at last, Colonel Callava found that he would not be permitted to answer in the manner he thought proper, he declined answering at all.

The steward, Fullarat, was then called up, and Colonel Callava objected to his being examined, on the ground that he was not of sufficient age. Some time was also employed with this examination; he answered that the boxes spoken of by Sousa had been delivered to him, and were then in Colonel Callava's house. The Governor, after the close of Fullarat's testimony, said, in a very deliberate and impressive manner, "that the papers had been seen in the possession of Sousa; that Sousa had acknowledged that they were delivered to the steward in the same boxes, and, by his declaration, were proved to be in Colonel Callava's house." The proof was therefore complete that the papers were in Colonel Callava's possession, and he was there called upon to deliver them; he was told that an officer would be sent with some one he should name, and bring the boxes; that he might open them in the presence of the Governor, and the papers specified be surrendered.

This was distinctly made known to Callava by me; and the Governor called upon Callava's friends, among whom was Mr. Innerarity, and who were acquainted with both languages, to explain it well. I was occasionally assisted by Mr. Rutledge, and every pains was taken that this part of the subject should be clearly explained. His answer proved that he did understand it. He repeated what he had said before—that he could not deliver the papers unless demanded of him as commissioner, or late Governor; that they could not be in his hands as a private individual; that he could not say whether they were in his possession or not; enforcing the same positions with a variety of other reasons, and of which I interpreted as much as I could; among them, he said that he could only be tried by a *tribunal de residencia*, which, at first, I did not exactly comprehend, until explained by Mr. Innerarity, at my request, to mean a court specially appointed to try Governors of provinces, &c., not amenable to the ordinary tribunals. The Governor, in the same

manner, enforced his demand of the papers by a variety of reasons; he observed, they were such papers as were contemplated by the second article of the treaty, which was read to him; that it was his duty to see, for the safety of the inhabitants, and the protection of their rights, that all papers relating to the property of individuals should be left. The conversation, as is natural, was warm on both sides, and some expressions were softened by me in the interpretation, and others, tending only to irritate and provoke, omitted altogether. These were principally the appeals of Colonel Callava to the by-standers, which were frequent, loud, and inflammatory; and, on the part of the Governor, strong expressions against what he considered a combination between him and others to withdraw the evidences of the right of property required by individuals; which combination I understood, and so expressed it, to be between Colonel Callava, Sousa, and the steward Fullarat, but which seemed to excite some indignation, as he said "Sousa is my domestic, my servant; he is nothing in this business." The Governor did at one time remind him of the fact that the testamentary papers of Vidal had been, by his own decree, ordered to be restored to the office, whence, as he expressed it, "they had been stolen." As this expression had no allusion to Colonel Callava, and as I was not particularly called upon to interpret it, I supplied its place by a milder term. I considered the expression as dictated by a high sense of the injustice said to have been done the heirs of Vidal in withholding the papers, and as expressive of astonishment that Colonel Callava, who had compelled the restoration of those very papers to the office whence they had been taken, should think of carrying them out of the country after he had obtained possession of them. In the course of these remarks, the Governor reminded Colonel Callava of his having promised to deliver the papers if found in the boxes. Here Colonel Callava exclaimed "it is false?" meaning that he had never made any such promise, but which was mistaken by the by-standers. I stated that Colonel Callava denied the promise, and that it was possible that I might have misunderstood him, which drew from the Governor an expression of displeasure. In a strong tone of voice, he asked, "Why then, sir, were you not more cautious?"—words which proceeded only from the irritation of the moment, while he was almost sinking with fatigue. It was then midnight, and he had been sitting, with scarcely any interval, from ten or eleven o'clock in the forenoon. After the lapse of two hours the Governor rose from his seat, and called upon me distinctly to state that Colonel Callava must deliver the papers, or abide by the consequences; he, at the same time, called upon the friends of Colonel Callava who understood English to explain to him his situation. It was fully explained to him. This was several times repeated, and, at length, a blank commitment, which had been prepared in case of necessity, was signed, and Colonel Callava committed to prison. The next day I presented a petition to open the boxes and seize the papers,

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which was accordingly done, as will be seen by the reports.

H. M. BRACKENRIDGE.

Sworn and subscribed before me, this 22d of October, 1821.

JOHN MILLER, *Mayor*.

No. 2.

Mr. Hannum's certificate.

I certify that I was in the alcalde's office on the evening of the 22d of August, when Colonel Callava, the late Spanish Governor of West Florida, was brought before General Andrew Jackson, the present Governor of the provinces of the Floridas. Colonel Callava entered the door, bowed, and took a seat which was handed to him, opposite to General Jackson, who was seated near a table used in the office. A short time after Colonel Callava had taken his seat, General Jackson stated to him, through his interpreter, Judge Brackenridge, the nature of the allegations exhibited against him, and requested him to answer the following interrogatory, viz: Were, or were not, the papers mentioned in a schedule handed to you by H. M. Brackenridge, alcalde of the city of Pensacola, delivered by Domingo Sousa at your house, this day, to Antoine Fullarat, your major domo; and, if so, at what time of the day? General Jackson informed Colonel Callava, through his interpreters, that those papers had been in the possession of Domingo Sousa, who had stated to Judge Brackenridge and others that he (Sousa) had delivered them, enclosed in a box, to the servant of Colonel Callava, at the colonel's house. Colonel Callava disclaimed the question at that time, and often afterwards, during the investigation, declaring that he was shielded by his diplomatic character as commissioner for the surrender of the country. General Jackson answered that his official functions had ceased, as all matters touching the surrender of the country were submitted to their respective Governments; and again put the interrogatory to him, but couched in different phraseology from the first interrogatory. Colonel Callava then asked permission to write his answer, which was granted. He commenced writing, and wrote but a few words; he then asked permission for his secretary, Cruzat, to write for him, which was granted; Mr. Cruzat then took a seat on the left of Colonel Callava; the colonel began to dictate a protest. Mr. Cruzat had written but a few lines, when General Jackson discovered that he was protesting against the proceedings. General Jackson then informed him, through his interpreters, that the question put to him was a plain proposition, and that he must give a direct answer to it. A long altercation then ensued: the colonel claiming his privileges as commissioner; General Jackson denying his right to such protection. Being sensible, from the stubbornness manifested by Colonel Callava, that he was determined to resist the authority of General Jackson, and likewise being satisfied, from the known character of General Jackson, that the colonel would be compelled to bow

to the law, I left the room before the colonel was committed, and before the examination of Sousa or Fullarat. I am certain that no paper was wrested from Colonel Callava during my stay in the room.

WAS. LE HANNUM.

OCTOBER 15, 1821.

No. 3.

Affidavit of John Miller.

I do certify that I was present on the evening of the 22d of August last, when Colonel Callava was brought before the Governor for refusing to deliver up the testamentary papers of the estate of Vidal, and that I attended to the conversation that took place on that occasion. I distinctly recollect that it was stated by General Jackson, that if Colonel Callava would send a person with an officer, and bring the papers and deliver them up, he should be released. No such expressions as that Colonel Callava "might protest before God, if he pleased," I am confident, were used by General Jackson. No papers were wrested from the hands of Colonel Callava; and, though there was occasionally some warmth in the General's manner, it was such as would be very naturally excited by the circumstances of the transaction. Towards the close of the examination, General Jackson rose, and observed to some gentlemen near him, (I think Mr. Innerarity and Mr. Cruzat,) "Gentlemen, you understand English; tell Colonel Callava, if he does not deliver up the papers, I will send him to the calaboose."

Given under my hand, October 22, 1821.

JOHN MILLER.

We were present during the whole of the above examination, and fully concur with Colonel John Miller in the facts contained in the above statement.

D. SHANNON,
F. H. NISBET.

OCTOBER 22, 1821.

VII.

The Secretary of State to Governor Andrew Jackson.

DEPARTMENT OF STATE, Jan. 1, 1822.

SIR: I have had the honor of receiving your letter of November 22, with its enclosures.

Translations are now transmitted to you, by direction of the President of the United States, of two letters received from the Minister of Spain, the definitive answer to which will be deferred until I shall have the opportunity of receiving your reply to this letter, with any remarks which you may think proper to make on the letters of the Minister. You will observe that, in that relating to the seizure of the papers at St. Augustine, he dwells with much earnestness on the agreement which had been made between Colonel Butler and the late Governor Coppinger concerning these papers. If that agreement was known to you at the time when you issued the order for demanding and securing the papers, will you have the goodness to state the particular grounds on which you judged it necessary to resort to compulsory measures for obtaining possession of them?

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I have the honor to be, with great respect, sir,
your very humble and obedient servant,
JOHN QUINCY ADAMS.

[Documents communicated with the President's Message of the 28th of January, 1822.]

Correspondence with, and papers received from, Judge Fromentin.

I. Secretary of State to Eligius Fromentin, June 27, 1821.

(*Enclosure.*)—Commission.

II. Mr. Fromentin to the Secretary of State, August 12, 1821.

III. Mr. Fromentin to the Secretary of State, August 20, 1821.

IV. Mr. Fromentin to the Secretary of State, August 26, 1821.

(*Enclosures.*)

No. 1. Writ of habeas corpus, August 23, 1821.

2. Recognizance of Jose Callava.

3. P. Wager to Judge Fromentin, August 23, 1821.

4. Governor Jackson to Mr. Walton, August 23, 1821.

5. Judge Fromentin to Governor Jackson, August 23, 1821.

V. Mr. Fromentin to the Secretary of State, August 28, 1821.

(*Enclosure.*)—Mr. Fromentin to Governor Jackson, September 3, 1821.

VI. Mr. Fromentin to the Secretary of State, September 6, 1821.

(*Enclosures.*)

No. 1. Alexander Scott, Jr. to Judge Fromentin, September 3, 1821.

2. Governor Jackson to Judge Fromentin, September 3, 1821.

3. Governor Jackson to Judge Fromentin, August 25, 1821.

4. Mr. Rutledge to Governor Jackson, September 3, 1821.

5. Judge Fromentin to Governor Jackson, September 3, 1821.

6. Governor Jackson to Judge Fromentin, September 3, 1821.

7. Dr. Bronaugh to Governor Jackson, September 2, 1821.

VII. Mr. Fromentin to the Secretary of State, September 8, 1821.

VIII. Mr. Fromentin to the Secretary of State, September 21, 1821.

IX. Mr. Fromentin to the Secretary of State, October 28, 1821.

(*Enclosure.*)—Extract.—Strictures.

X. Secretary of State to Judge Fromentin, October 26, 1821.

XI. Judge Fromentin to Secretary of State, November 22, 1821.

(*Enclosures.*)

No. 1. Decree by Hernandez.

2. Opinion of N. S. Suares.

3. Petition of Mercedes Vidal,

4. Petition of Mercedes Vidal.

5. Petition of Mercedes Vidal.

6. Petition of Mercedes Vidal.

7. Minute of proceeding in the case of Vidal.

8. Petition of John Innerarity.

9. Plea of John Innerarity.

10. Petition of John Innerarity.

11. Order to auditors.

12. Statement presented to auditors.

13. Statement presented by John Innerarity.

14. Statement presented by John Innerarity.

15. Forbes & Co. vs. Vidal.

16. Account of sales of Vidal's estate.

17. Account of sales of Vidal's estate.

18. Report of auditors.

19. Plea of John Innerarity.

20. Petition of John Innerarity.

21. Innerarity's exceptions to the auditor's report.

22. Plea of John Innerarity.

23. Decree in the case of Vidal.

24. Extract from the Spanish records.

XII. Judge Fromentin to the Secretary of State, December 2, 1821.

(*Enclosure.*)—Judge Fromentin to Captain Henley.

XIII. Judge Fromentin to the Secretary of State, December 9, 1821.

(*Enclosure.*)—Exposition, &c.

XIV. Judge Fromentin to the Secretary of State, December 17, 1821.

(*Enclosure.*)—Opinion in case of Vidal vs. Innerarity.

I.

The Secretary of State to Mr. Fromentin.

DEPARTMENT OF STATE,
Washington, June 27, 1821.

SIR: The President having appointed you judge of the United States for West Florida, and that part of East Florida which lies westward of the cape, I have the pleasure, herewith, to transmit your commission, and to add the expression of my wish that the appointment should prove agreeable to you. In that case, it will be necessary for you to repair, with all convenient despatch, to Pensacola, to enter upon the duties of the office, there being reason to believe that the Spanish authorities will have delivered over the actual possession of both the Floridas to General Jackson before this communication reaches you; and, towards the organization of the temporary Government under his direction, it may be important that the judiciary department should be put into operation immediately. I am, &c.

JOHN QUINCY ADAMS.

ELIGIUS FROMENTIN, Esq., *New Orleans.*

[*Enclosure in I.*]

JAMES MONROE, *President of the United States of America, to all who shall see these presents, greeting:*

Know ye that, reposing special trust and confidence in the wisdom, uprightness, and learning of Eligius Fromentin, of Louisiana, I do appoint him judge of the United States for West Florida, and for that part of East Florida which lies westward of the cape, to reside at Pensacola; and do authorize and empower him to execute and fulfil

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the duties of that office, according to the Constitution and laws of the United States; and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Eligius Fromentin, during his good behavior, and until the end of the next session of the Senate of the United States, and no longer.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed. Given under my hand, at the City of Washington, the eighteenth day of May, A. D. eighteen hundred and twenty-one, and of the Independence of the United States of America the forty-fifth.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS.

II.

Mr. Fromentin to the Secretary of State.

PENSACOLA, August 12, 1821.

SIR: Having anticipated that it might be necessary for me to repair without delay to Pensacola immediately upon receiving my commission, I left New Orleans early in July for Pensacola, where I received yesterday, from New Orleans, my commission and your letter of the 27th of June last.

I thank you, sir, for the expression of your wish that the appointment may prove agreeable to me.

I am now ready to enter upon the duties of my office.

The attorney of the United States has not yet arrived; and the marshal has left this place for St. Augustine without appointing a deputy.

With great respect, I have the honor to be, sir, your most obedient servant,

ELIGIUS FROMENTIN.

HON. J. Q. ADAMS, *Sec'y of State*

III.

Judge Fromentin to the Secretary of State.

PENSACOLA, August 20, 1821.

SIR: The time which was to intervene between the moment when I received your letter of the 27th June last, and the moment when I was informed my answer should be deposited in the post office, was so short that I could not then touch upon the topic which is to be the subject of my present communication.

When I first was informed of my appointment as judge of the United States for West Florida, &c., I understood it to be an appointment to the office of a Territorial judge, with the additional jurisdiction vested in the judges of such Territories where no district court of the United States has been established by the act entitled "An act to extend jurisdiction in certain cases to the Territorial courts," passed March 3, 1805.

Upon receiving my commission and your letter of the 27th June last, I was rather confirmed in that opinion by the concluding paragraph in your letter, in the following words:

"And towards the organization of the temporary Government under his [General Jackson's] direction, it may be important that the judiciary department should be put into operation immediately." I may be mistaken, but it seems to me that if the court to which I am appointed is to be confined, as General Jackson contends, to the revenue laws of the United States, and to the act respecting people of color, it could hardly be denominated the judiciary department, with reference to the organization of the temporary Government under the direction of General Jackson. However, I deemed it my duty to communicate my commission and your letter to General Jackson, who communicated to me, in return, such parts of his several commissions as he conceives admit of a construction entirely at variance with that which I put upon my commission and your letter.

It was, then, already too late for me to urge any objections; the Territorial court, consisting of five judges, created by General Jackson, (the presiding judge of which, by-the-by, is not of age, according to the Spanish law, which he administers, being only twenty-two years of age, and the law requiring, for that office, that he should be at least twenty-five years,) having been already in session one week before my commission reached me.

I told the General that I would write to you on the subject. He told me that he had either written to you already, or would write to you likewise. In the mean time, things must of course go on as I found them established on my arrival here, until I learn from you the precise intentions of the President respecting the extent of the powers vested in me. This representation, I beg you to believe, is not prompted on my part by the remotest desire of assuming a jurisdiction not intended to be given, but by a solemn obligation which I deemed to be imposed upon me, to inform you of the difficulties in which I am placed, and to desire you to transmit to me, as early as possible, the necessary information.

I have heard nothing of or from the marshal, or any deputy appointed, or to be appointed, by him, since the date of my last. I feel very uneasy on the subject, as the public service must necessarily suffer from the absence of that indispensable officer, there being no authority here by which the deficiency may be supplied.

The 27th section of the act of September 24, 1789, prescribes the amount and the mode of the security to be given by the marshal and his deputies, and the form of the oath to be taken by them; and, unless Judge Duval should now be in St. Augustine, to have those necessary forms complied with, I know not when I am to expect here a deputy marshal duly qualified. I say a deputy, because I understand that the marshal himself contemplates making St. Augustine the place of his habitual residence.

I took the oath of office before General Jackson. The attorney of the United States has not yet arrived.

I have the honor to be, &c.

ELIG. FROMENTIN.

HON. J. Q. ADAMS, *Sec'y of State.*

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IV.

Judge Fromentin to the Secretary of State.

PENSACOLA, August 26, 1821.

SIR: At the same time at which this will be delivered to you, you will receive, no doubt, from General Jackson himself, a full detail of the outrage by him committed on the person of Colonel Callava. My unavailing efforts to have the Colonel released only brought upon me a part of the same contumelious treatment. I am not sufficiently acquainted with all the circumstances attending the transaction to be able to give you a complete history of it. I will, then, confine myself to giving you an account of the conduct which I pursued, and which, now that passion has somewhat subsided, I think, upon mature reflection, is the only conduct which my duty permitted me to pursue.

Early in the morning of the 23d instant I was informed that Colonel Callava had been arrested the preceding night in his own house, and carried to jail. Soon after, my house was filled with people of all descriptions and languages. By degrees the crowd retired, and it was not until about eleven o'clock that Messrs. La Rua, Innerarity, Dr. Brosnaham, and Father Coleman, returned to my house. The first three applied to me for a writ of *habeas corpus*. I knew that it was in vain, having no marshal to execute my orders, to send an individual, who could have no authority to demand it, for a copy of the warrant in virtue of which Colonel Callava was detained; and that, as that copy would, and perhaps ought to have been refused by an officer of the army to that individual who could have no legal character to demand it, I could not, from an affidavit of a refusal to deliver the copy of the warrant under those circumstances, find myself more authorized after than before such a refusal to issue the writ; and, indeed, could a legal demand have been made with success, in the absence of a marshal, from an officer of the army? Could anybody have obtained from either General Jackson, or the officer in whose immediate custody Colonel Callava was, a copy of the warrant? It is enough to have a right to trample under foot every law, to place the officers charged with their execution in the impossibility of complying with the requisites of the law. Would not the same uncontrollable temper which manifested itself at the issuing of the writ, have manifested itself at the application for a copy of the warrant, which would have prevented the issuing of the writ, because nobody then could have been found to serve it? I felt anxious, sir, after the application was made to me, that the only judicial officer of the United States in West Florida, although with the consciousness of not being able to accomplish it, should do every thing in his power to liberate Colonel Callava from confinement. Is it fair to apply to me, under the most extraordinary circumstances of difficulty, the severity of the forms intended to be complied with in a state of undisturbed tranquillity?

Besides, there are no indispensably necessary formalities absolutely required previous to the

granting of that writ. The form of it may vary a little, according to the laws of the several States. Some may require security for costs, if the writ should be improperly applied for; others may require security that the party in the act of bringing him before the judge shall not escape; others may require other things; but there is not, that I know of, any particular prerequisite commanded by the laws, or adopted by the courts of the United States, which, I believe, follow, in that respect, the particular forms prescribed by the laws of the State in which an application is made for the writ. I was then, in that respect, bound by no precedent, and I was forced to adopt the only mode which I had it in my power to pursue.

The common law, by allowing that particular writ to be served by anybody, and upon anybody, seemed to have anticipated the peculiar difficulties in which I was placed. The only question, then, for me to examine, after a formal, though verbal, application was made to me, was, whether I had a right to issue the writ. With that view I consulted my commission. I find myself there styled a judge of the United States, authorized and empowered to execute and fulfil the duties of that office according to the Constitution and laws of the United States. I need not say that I consulted the Constitution; but I consulted the acts of Congress, and, in the 14th connected with the 13th section of the act of September 24, 1789, I find that all the above-mentioned courts of the United States have a right to issue the writ of *habeas corpus*, and all other writs not specially provided for by statute, which may be necessary for the exercise of their respective jurisdiction, and agreeably to the principles and usages of law.

But again, says General Jackson, the writ of *habeas corpus* is not extended by law to this Territory, and I must confine myself to the jurisdiction given by the act of Congress in the only two cases mentioned in the act, to wit, the revenue laws, and the importation of people of color; and could not I, in return, ask General Jackson by what act of Congress grand juries, and, in criminal matters, petty juries, have been established in this Territory? The General has established them. He has done right; I thank him for it. But is it more necessary for the protection of the liberties of the people that they should be tried in criminal matters by a jury, than it is that they should have a remedy against the wild ravings of ungovernable tyranny? Let the events of the 22d, and I might add of the 23d and 24th days of this month, answer the question. God grant that before long a still more eloquent answer be not furnished to the question!

Yet, sir, determined as I was, as far as lay in my power, to endeavor to have justice done to Colonel Callava, I was not less determined to have justice done to the country. I feel as deeply as any American any attempt, on the part of the agents of foreign Governments, to disregard the rights of the United States. I once had an opportunity of expressing my opinion to you in writing on that very subject, and I may safely appeal to what I wrote then for a correct expression of what

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I must feel in every similar case; and, although I do not believe a word of what is attempted to be laid to the charge of Colonel Callava, yet, in consequence of the state of agitation in which the whole country was thrown, I deemed it a duty, under the discretionary power vested in all the judges, who have a right to grant the writ of habeas corpus, to require security; and I informed the friends of Colonel Callava, who applied to me for the writ, that I would, before setting Colonel Callava at liberty, require security for the production before me of the papers said to be in his possession. Security was offered to any amount. I mentioned forty thousand dollars—Colonel Callava himself in twenty thousand, and the two securities in ten thousand dollars each. Mr. La Rua and Mr. Innerarity agreed to become securities. I then issued the writ marked No. 1, and delivered it, to be served on the officer who had the guard of the prison where Colonel Callava was confined, to Dr. Brosnahan, another of the friends of Colonel Callava, who had joined in applying for the writ. In the mean time, I prepared a rough draught of the recognizance, a copy of which is sent, marked No. 2. The rough draught of that recognizance was on my table when Colonel Walton came to bring me the order from General Jackson to be hereafter mentioned, and I gave it to him to read.

I was engaged in making some necessary alterations in the draught of that recognizance when I received, from the officer of the day, the letter marked No. 3, in answer to the writ I had issued. I dropped the unnecessary labor of putting the recognizance in a better shape. The soldier who brought me the letter of the officer of the day had scarcely left my house, when Colonel Walton entered it with the written order above alluded to, from General Jackson to me, marked No. 4. After some conversation with Colonel Walton, in the course of which I mentioned to him what I had done and intended to do in this business, I gave him to read, as before stated, the rough draught of the recognizance. I then desired him to furnish me with a certified copy of the written order which he had given me to read, and he agreed to call on me at 5 o'clock for my answer. He returned in about half an hour, and gave me the written copy I had applied for. In the mean time, having reflected on the strange message of General Jackson, I determined upon writing to him the letter, a copy of which accompanies this, marked No. 5. About 5 o'clock Colonel Walton returned, according to promise; and I gave him to read the letter which I had prepared in answer to the written communication of General Jackson. After reading it several times, he advised me not to send it, and observed that, as he himself knew that I was then suffering from a severe rheumatism, which prevented me from walking, he would state the fact in his return, and that I could thus further advise what I thought best to do. This letter was not, of course, sent to Gen. Jackson. We had some further conversation; and, at parting, I told the Colonel that, in the situation which I was, nothing but force would compel me to leave my house.

The Colonel made his return. I did not see him again that day; and when night came I anticipated a renewal of the scene of the day before, and prepared myself for the consequences; however, nobody came to disturb me. The next day about noon the Colonel returned, and observed that both the General and myself must be desirous of making a report of this affair to the Government by the next mail; that there was no time to be lost; and that it was the General's wish that I should call at his office the next day in the morning. After the Colonel had withdrawn, I reflected that the state of things was now somewhat different from what it was the day before: a reason was assigned for my having an interview with the General, the force of which I felt; and, ultimately, a longer resistance would only end in affording General Jackson the scandalous triumph of once more trampling upon the laws of his country. I determined to go there that very afternoon; and accordingly, at about 4 o'clock P. M., I went to the office of General Jackson. The conversation, as you may suppose, was nearly all on one side, not unmixed with threats of what he said he had a right to do for my having dared to interfere with his authority. He asked me whether I would dare to issue a writ to be served upon the Captain General of the island of Cuba? I told him no; but that, if the case should require it, and I had the necessary jurisdiction, I would issue one to be served upon the President of the United States. Ultimately, he wished to know the names of the persons who had applied for the writ of habeas corpus. I unhesitatingly told them to him. Then he wished to know whether they had made the usual affidavit, stating that they had been refused a copy of the warrant upon which Colonel Callava was confined. I told him no; that the application to me was a verbal one. General Jackson then required me to sign what I had just declared. I told him I was ready to do it, and I did it accordingly; Dr. Bronaugh, who was present at the conversation, having reduced that part of it to writing.

Much more was said by the General respecting the extent of his powers; the happy selection made of him by the President; the hope that no living man should ever in future be clothed with such extraordinary authority; how fortunate it was for the poor that a man of his feelings had been placed at the head of the Government, &c.; the whole intermixed with, or rather consisting altogether of, the most extravagant praises of himself, and the most savage and unmerited abuse of Colonel Callava, and of myself, for doing my duty, in attempting to set him at liberty.

The first time the authority of General Jackson is contested, I should not be surprised if, to all the pompous titles by him enumerated in his order to me, marked No. 4, he should superadd that of grand inquisitor, and if, finding in my library many books formerly prohibited in Spain, and among others the Constitution of the United States, he should send me to the stake.

I had taken the liberty, in the course of my conversation with him, to contest some of the powers

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he assumes as Governor and Intendant, &c.; of which legal powers, both previous to and since the adoption of the Spanish constitution, he appears to me not to have the remotest knowledge. As to the Spanish constitution, he will not hear of it, although it was solemnly sworn to here about sixteen months ago; nothing will do for him but the laws which were in force in Spain on the 15th of February, 1819. So that the first initiation of the inhabitants of Florida in the enjoyment of liberty must be by a retrograde step from a state of comparative liberty to a state of absolute slavery. I attempted to represent, but he would not let me go on; ultimately, I was permitted to depart without having suffered but in my feelings as an American.

The American flag, it is true—the flag of liberty—waves on our forts; a treacherous sign in Florida. Sir, the bohon upas tree of slavery overshadows our town.

Sir, it is reluctantly that I speak of a man whom I once delighted to honor; but I owe you the truth, and, painful as the task may be, I must discharge my duty.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

No. 1.

The United States to Lieutenant Mountz, of the 4th regiment United States infantry, greeting:

You are hereby commanded that you forthwith have the body of Jose Callava, late Governor of the province of West Florida, now in your custody, as is said, together with the day and cause of his caption and detention, by whatever name he may be known, before the judge of the court of the United States for West Florida, and for that part of East Florida which lies westward of the cape, at his chambers, in the city of Pensacola, to do, receive, and submit to whatsoever the said judge shall consider in that behalf; and have you then and there this writ, with your doings thereon.

Witness, Eligius Fromentin, judge of our said court, this twenty-third day of August, in the year of our Lord eighteen hundred and twenty-one.

[Endorsed as follows:] I allow this writ.

ELIGIUS FROMENTIN,

Judge of the United States, &c.

No. 2.

Jose Callava, principal, acknowledges to owe to the Government of the Floridas the sum of \$20,000, and —, as sureties, acknowledge to owe, each of them, \$10,000 of their estate, real and personal, to be levied to the use of the said Government, upon this condition: that, if the said Jose Callava shall personally be and appear before the judge of the United States for West Florida, and that part of East Florida which lies westward of the cape, whenever required so to do; and further, that the said Jose Callava shall not depart from the city of Pensacola without the leave of the said court, nor send away, remove, or otherwise

dispose of, unknown to the said court, any papers now in his possession, which, by the late treaty between Spain and the United States, ought of right to be delivered to the United States, which said papers are represented to me now to be under seal in one or more boxes or trunks, with other papers in the house of the said Callava, then this recognizance shall be void; otherwise, it will remain in full force.

No. 3.

PENSACOLA, August 23, 1821.

SIR: Your writ of habeas corpus, demanding the body of Don Jose Callava, has been received and referred to his Excellency the Governor, Andrew Jackson, by whose order he was confined, and who still directs that he be detained in confinement, until released by his orders.

I have the honor to be, &c.

P. WAGER,

Captain and officer of the day.

Hon. Judge FROMENTIN.

No. 4.

Eligius Fromentin, Esq. will forthwith be and appear before me, to show cause why he has attempted to interfere with my authority as Governor of the Floridas, exercising the powers of the Captain General and Intendant of the island of Cuba over the said provinces, and of the Governors of said provinces, respectively, in my judicial capacity as supreme judge over the same, and as chancellor thereof; having committed certain individuals charged with a combination to secrete, and with having attempted to secrete and carry out of the territories ceded to the United States the evidence of individual right to property within the said territories, which has been secured to each individual under the second article of the late treaty with Spain, and in open contempt of the orders and decrees made by me; and that the said Eligius Fromentin, Esq. be and appear before me, at my office, at five o'clock P. M., in Pensacola, to make known the above cause, and to abide by and perform such order and decree as the undersigned may of right deem proper to make of and concerning the same.

Given under my hand at Pensacola, this twenty-third day of August, eighteen hundred and twenty-one.

ANDREW JACKSON,

Governor of the Floridas, &c.

To Colonel GEORGE WALTON, Secretary of West Florida, to make known and execute the above, and to furnish a copy of the above, (if required,) returning this original, and in writing making known how he has executed the same.

A copy:

GEORGE WALTON,
Secretary West Florida.

No. 5.

PENSACOLA, August 23, 1821.

SIR: I would at all times have complied very willingly with any request of yours, although

am at present so much indisposed that I could not now have it in my power personally to wait upon you.

Of the nature and extent of your powers, you now are the best judge; nor do I pretend to interfere with your authority.

In granting the writ which was applied for this morning, I obeyed the duty which I conceived to be imposed upon me by the fourteenth taken in connexion with the thirteenth section of the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789.

I have the honor to be, with respect, your most obedient, humble servant,

ELIGIUS FROMENTIN.

His Exc'y Governor JACKSON.

V.

Judge Fromentin to the Secretary of State.

PENSACOLA, August 23, 1821.

SIR: I intended to have accompanied my last with written references to several elementary writers on the common law of England, in support of the principles by which I was governed in granting a writ of habeas corpus in the case of Colonel Callava. Upon reflection, I thought it best to refer to them all generally, and to refer at the same time to all the laws of the several States and Territories of the Union on the subject of issuing writs of habeas corpus; and, likewise, to the code of laws prepared by the authority of Congress for the District of Columbia.

Now, I might ask by which of those laws was my conduct to be regulated? None of the formalities required or advised by either the English or American writers on the subject is indispensable. Otherwise, the same invariable practice must, of necessity, prevail both in Great Britain and in all the States and Territories of the United States. None of them can be said to be even necessary, since either the one or the other of these formalities which may be required in England, in Massachusetts, or in Georgia, may not be requisite in Vermont, in New York, or in Kentucky. And is it for me, by prescribing any (no matter what) formality for the obtaining of this writ, which formality has not been prescribed by the United States, to pretend to abridge, or to encumber with any previous obligations, the right vested by the Constitution in every citizen of the United States, to this invaluable writ? The prescribing of those formalities is the right of legislative authority. I took, and I was obliged to take, the common law writ of habeas corpus, naked and unencumbered with the restrictions which it has received, either from the often contradictory decisions of the several courts of justice in England, with which I have nothing to do, or from the statute law either in Great Britain or in the several States and Territories of the Union; none of which indubitably can be considered as applicable to the Floridas. My only duty, in which all the writers and the uniform practice of the United States and Great Britain agree, was, to see that no possible injury could result to the public from

granting the writ; and against this I had amply provided, by requiring security for the production of the papers in the sum of forty thousand dollars. Further than that I could not go, without usurping an authority which was not delegated to me.

AUGUST 31, 1821.

Another part of my conduct may require a more detailed explanation than I could possibly give it in my last letter. I allude to the determination I took of repairing to the office of General Jackson. Sir, if General Jackson had been, or rather had professed himself to be, as I believe he is, only a military chief and an executive officer, I should have resisted his authority to the last. The worst then that could have happened would have been an imprisonment, more or less protracted, more or less severe. For that I was prepared. But, sir, be it remembered that General Jackson contends for unlimited powers. He is a Captain General; he is an Intendant; he is a Governor; he is a supreme judge; he is a Chancellor; he is — what is he not? What he may claim a right to do, nobody knows; nobody can tell. And in all these multifarious characters, if he had been able to dissemble, like Tiberius, and had not dragged me before his own tribunal, I have little doubt but that, upon the slightest pretence, he would have transferred me before the tribunal of his own creation, not less his own; to which tribunal, contrary to all principles recognised by our Government, he assigned a jurisdiction extending to death, graciously however manifesting his tender mercies to the people of these provinces, by declaring, as he does in his ordinance published in the first number of the *Floridian*, that there shall be no execution for a capital offence until the warrant of the Governor be first had and obtained. Sir, that man must get rid of me in some way or other to make room for a Mr. Hayward, or Haywood, from Tennessee, whom he told me himself he had recommended to the President for the office which I now hold.

I understand that, with this view, a memorial has been sent by the last mail to the President, purporting to be signed by persons who call themselves members of the bar. What the precise purport of that memorial is, I know not. Of all the persons who profess themselves to be lawyers in this place, I know nobody even by name, but Mr. Brackenridge, with whom, for fifteen years, I have been on terms, if not of intimacy, at least of familiar acquaintance. Whether he has signed that memorial or not, I am not informed. But if he has, it affords an additional proof of what rapid progress the gangrene of the most abject slavery can make, even in a few hours, when the *vultus instantis tyranni*, by striking terror in every soul, compels me to do that which, under every other circumstance, they would hold most in abhorrence. Such are the inextricable mazes of the labyrinth in which tyranny involves itself, that, in order the better to conceal the bastard origin of this memorial, it is not improbable but the memorialists, agreeing in the main point with their master, were made there to hold a language somewhat at vari-

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ance with what are generally known to be the opinions of the man under whose auspices I cannot doubt the memorial originated.

And now sir, I have done with talking to you of myself on the subject of this detestable affair. I am sensible that I owe an apology for consuming so much of your time. Yet I could not have said less, in duty to the Government by which I was appointed, and in duty to myself. I now leave the case to the judgment of my country; and, anxious as I must feel for a favorable issue, I must be permitted to add, that I had rather fall in the cause which I defend, than triumph in that supported by my adversaries.

I have, &c.

ELIG. FROMENTIN.

N. B. When, in the line before the last of the third page of this letter,* I say that *I should have resisted his authority to the last*, I simply allude to my consenting to go to his office, under the circumstances detailed in my letter of the 26th ultimo, and not to any improper concessions, which I have never made, and never shall make.

SEPTEMBER 2, 1821.

Some less vague information, just obtained, of a report prevailing in town that I had apologized to General Jackson for issuing the writ of habeas corpus in the case of Colonel Callava, will necessitate, on my part, an application to General Jackson for a solemn denial of the atrocious charge. Of what may pass on the occasion, I will advise you by the next mail.

The following is a copy of the letter which I will send to General Jackson, as soon as I shall have closed the letters I intend to forward by this day's mail:

PENSACOLA, Sept. 3, 1821.

SIR: I am informed that it is rumored in town that, in the interview between your Excellency and myself, on the afternoon of the 24th ultimo, I had apologized to you for issuing a writ of habeas corpus, in the case of Colonel Callava. I hope your Excellency will not hesitate in enabling me effectually to contradict that report. Your Excellency cannot have forgotten that, from the beginning to the end of the conversation, I insisted, not only on the right, but on the duty, of a judge of the United States to grant that writ; and that, among other things, upon being questioned by your Excellency whether I would order a writ of habeas corpus to be served upon the Captain General of the island of Cuba, I told you no; but that I would not hesitate, if the case should require it, and if I had the necessary jurisdiction, to issue one to be served on the President of the United States. To this you answered, that the President of the United States was liable only to impeachment. I added, that I was confident that, in my place, you would have issued a writ of habeas corpus. I have the honor to be, &c.

His Ex^{cy} Gov. A. JACKSON.

* The seventh line of this letter as printed, (see page 2384 ante.)

VI.

Judge Fromentin to the Secretary of State.

PENSACOLA, September 6, 1821.

SIR: By the last mail I had the honor to forward to you a copy of the letter which I told you I contemplated addressing to General Jackson on the 3d instant. I sent it to him accordingly, a little after twelve o'clock, by Mr. Alexander Scott, Jr. The verbal answer of General Jackson, as delivered to me in writing by Mr. Scott, is forwarded with the present, marked No. 1.

Before I proceed in the narrative, give me leave to submit a few observations on the statement made by Mr. Scott.

"He requested me," says Mr. Scott, "to inform you that the declaration which you signed, promising in future not to interfere with his authority, he deemed an ample apology."

Sir, I signed no such declaration, nor was I ever asked to sign any such thing; nor would I, if asked, have ever consented to sign it; the words "in future," which are here inserted, being intended, no doubt, to have a reference to the writ I had issued, which I never could have done, since I insisted on the contrary all the time, (as I hope to be able to prove by General Jackson himself,) both for the right and duty in me to issue the writ. Sir, if there be such a declaration in existence, it is a forgery. Yet a statement to the same effect was mentioned to me this morning, as having been made by a Mr. Connor, a gentleman in the family of General Jackson. I shudder at the bare suspicion of such a foul deed. But the fact having been mentioned by General Jackson himself, I could not help thus far, for the present, animadverting upon it.

I will at once take up the letter of General Jackson, (marked No. 2,) which is next in order. In that letter, I pass over all that relates to the General's opinion of the extent of my jurisdiction, &c., which has nothing to do with the question now before you.

The first thing which strikes me in this letter is not so much what is, as what is not in it. It forcibly puts me in mind of the passage of Tacitus, describing the funeral pomp of Junia: "*Præfulgebant Cassius atque Brutus eo ipso quod effigies eorum non videbantur.*" The first thing I looked for in that letter was an account of the pretended declaration, said to be signed by me, as the General himself told Mr. Scott not two hours before I received his own answer. There must be such a declaration, since he said so; and if there be, there is no need of any thing else. This must be damning proof. Why not state it? Why not tell me of it? Did this avowal escape the General prematurely, in an unguarded moment? Has not the time arrived yet to make use of it? Does he intend to keep it back, to fall upon me unawares, when I may be supposed not to be prepared to repel the charge? or has it found its way to Washington, in support of the memorial of the persons who call themselves members of the bar here? Or, after answering the holy purposes of the General, has a timely fear of discovery, owing, perhaps, to

some blunder in the execution, (I wish I could add, perhaps a timely remorse,) led to the destruction of the precious document? What has become of it? It once was in existence, or else why did General Jackson mention it to Mr. Scott? Why did Mr. Connor mention it to another person? Where is it? I say again, where is it? General Jackson states in his letter that I then declared "that hereafter I would in no way interfere with his authority." That is something, to be sure, considering the effect he attempts to give to it, by the insertion of the potent *hereafter*, and by the constructive apology he derives from it afterwards. But, sir, how weak, how watery, compared with this more than fourth proof evidence signed by myself!

I now turn to the accusing part of General Jackson's letter. "I acknowledged that I had acted hastily, without due consideration, and without proper information as to the facts of the case."

Upon endeavoring to recollect the whole conversation, I think General Jackson, in his usual mild way, made use himself of those words, or some others to the same effect. But that I acknowledged the truth of those facts, remains to be proved; and I will prove the very reverse, by the evidence supplied by General Jackson himself.

"Upon the importunities of John Inzerarity and some other Spanish gentlemen." But General Jackson forgets that he states himself, to me, in his note of the 25th, marked No. 3, that it was expressed by me that the writ was issued on the verbal *application*. A vast difference, General, between *application* and *importunities*.

And now let me pause a moment and consider. General Jackson insists that I must sign a declaration stating that I issued a writ of habeas corpus on a verbal application—a venial sin, under all possible circumstances, sir, in comparison with the atrocious crime. And he does not ask me, who am so submissive, so compliant, whom he could so easily frighten into an irresistible submission by the dread of confinement—he does not ask me to put the infamous sign of my henceforward infamous name to the revolting catalogue of crimes, which, thank God, have no existence but in General Jackson's own imagination.

Is it possible, sir—is it credible—that if I had made the concessions stated in General Jackson's letter, the General would not, under the malevolence towards me which he has betrayed in every part of his conduct since my arrival here, in the same proportion in which I myself evinced moderation—is it possible, I say, to believe that he would not have had that part of our conversation too reduced to writing by Dr. Bronaugh? and if he has not had it reduced to writing, under those circumstances, is it not a most irrefragable proof that such a conversation never passed? Another proof, of no less weight, is the statement made by Mr. Rutledge, a young gentleman who lives in General Jackson's family, who was present at the whole of the conversation, and yet does not state any of the facts above enumerated. [See Mr. Rutledge's letter to General Jackson, No. 4.]

"And that, had I been apprized that Colonel

Callava had been committed by him for contempt of his authority, I certainly would not have interfered."

Sir, it was unnecessary for me to enter into a discussion as to the judicial authority of General Jackson; for, as I before observed, the case had already been referred to the President. But, without insisting upon that point, I contended that I had a right to interfere in the case here, at the same time that I granted I should have no right to interfere if Governor Jackson, instead of being the Governor of a Territory, was the Governor of an independent State; but that, Governor as he was, Colonel Callava was, of course, detained a prisoner under color of the authority of the United States, and that, in that case, it was my right and duty to interfere.

But why do I say any thing myself on the subject? Sir, be so good as to turn to the last paragraph but one in General Jackson's first letter of the 3d September, marked No. 2. There you read as follows: "and I stated to you, that if you were in the States, you would have no right to interfere in the manner which you had attempted here; and referred you to the laws of Congress."

Sir, can there be a more ample confirmation of the truth of that part of the conversation above stated than those very words of General Jackson? for to what else than my own observations on the subject could those remarks of the General apply? But, sir, it is not all. Those words of General Jackson contain a positive admission that I had here the right to interfere, although I might not have had it in the States. What, sir! It was with his eyes open, and with the consciousness that I had the right to do what I did, that General Jackson rendered himself guilty of the many outrages offered to me in my official character! Oh, my country! Oh, the liberties of America!

Give me leave now, sir, to take a retrospective view of my letter to General Jackson, to which the one which I have just done analyzing is an answer; and what does it contain? A positive assertion on my part, that, from the beginning to the end of the conversation with General Jackson, I insisted both on the right and duty of a judge of the United States to grant that writ. Does General Jackson deny that fact in his letter, sir? Yet this cannot be true, if I held the language attributed to me by General Jackson. And we shall see, presently, in what style General Jackson answers, when General Jackson writes under the real or affected impression that the facts which he is going to refute are not true. Thus much, now, by anticipation, to confirm, by the silence of General Jackson, the truth of the facts contained in my first letter to him of the 3d instant, which I had the honor to send you by the last mail.

The next document in order is my second letter of the 3d September to General Jackson, marked No. 5, in reply to his answer. This letter contains scarcely any thing but a respectful denial of the charges made against me by General Jackson in his first letter of the same day, conveyed in as decorous language as my knowledge of it permitted me to use, and some further comparatively

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immaterial statements of facts, which sufficiently explain themselves, and require, of course, no comment from me. Let the letter speak for itself. I will only observe, that I sent this letter by Mr. Scott, within less than half an hour after receiving General Jackson's first letter of the 3d September; but, owing to General Jackson being otherwise engaged, Mr. Scott had no opportunity to have the letter delivered to him until between six and seven o'clock of the same day, P. M. The next morning, September the 4th, at about eight o'clock, A. M., I received, from the hand of Mr. Connor, above mentioned, the second letter of General Jackson, marked No. 6, dated September 3d, in answer to my second letter, which has drawn upon me the indignation and contempt of General Jackson. The indignation and contempt of General Jackson!

I beg pardon, sir, for the scandalous, indecorous, and disgusting scene which I am now compelled to open to your view. But, sir, because my enemy, like the swine, which delight in nothing as much as but filth, has thought it convenient to seek a refuge in the quagmire of Billingsgate abuse, shall I let go the hold I have of him? No, sir, covered with dirt, it is true, but nobly covered with dirt, which, coming in contact with such an enemy, I cannot protect myself from, I will still hold him—still drag him before the tribunal of his country—of his much injured country.

Sir, I must again beg pardon. I shudder at entering on the subject; but I must. I cannot help commenting upon every line—upon every word—of this most infamous document. The letter runs thus: "Sir, I have this moment received your second note of this day. The first created my astonishment, it is true; but the second my indignation and contempt. For I did not suppose, until your note now before me furnished the conclusive evidence, that you were capable of stating a wilful and deliberate falsehood."

What, sir! General Jackson, before he received my second note, did not suppose I was capable of stating a wilful and deliberate falsehood! But, sir, what is my first letter, which did not create the indignation and contempt of General Jackson, but a wilful and deliberate falsehood, if the accusation contained against me in General Jackson's first letter be well founded? Is it possible, sir, that the man who, from the beginning of the conversation to the end, could have insisted upon his rights and duties as a judge of the United States, could have made the concessions stated in General Jackson's first letter? and, if the two statements are irreconcilable, why, after reading my first letter, did not General Jackson pour upon me the whole flood of his indignation and contempt? No; it was not until after he read my second letter that he thought me capable of stating a wilful and deliberate falsehood. Does it not, then, necessarily follow, sir, from General Jackson's own confession, that the facts stated in my first letter to him are true; and, if true, that the accusation against me by General Jackson must be —? I will not, sir, out of respect to you, say what it

must be. Let any honorable friend of General Jackson himself fill up the vacancy I have left.

Let us proceed: "That you have done so in your note of this evening, I do assert." I had, then, not done so in my note of the morning; otherwise, why does he not assert it likewise?

"— as the enclosed certificates of Doctor J. C. Bronaugh, (who was directed by me to pay strict attention to our conversation) and Mr. Rutledge, fully prove."

If any thing was wanting to establish the spirit of personal hostility to me, with which the whole of this business was undertaken and managed by General Jackson, is there not abundant proof of his motive afforded in the dishonorable confession he makes—he too, he says, acting in the highest possible judicial capacity—that Doctor J. C. Bronaugh was directed by him to pay a strict attention to our conversation? For what purpose, sir? To state the truth impartially? Why, then, did he not give his directions to Doctor Bronaugh in my presence? Why did he not notify me, since he himself had taken one, to bring a second likewise? No, sir, I was not called upon to fight a fair duel. Assassination had been resolved on—assassination in the dark. I was to be entrapped; and an American General is the author of the foul deed. Have we, have the American people, become prematurely decrepit in the short space of a few lustres, during even the lifetime of the worthies; of many yet, thank God, of the worthies, who, by their arms in the field, or their labors in the cabinet, succeeded in erecting the stupendous fabric of our liberty, the sheet-anchor of the liberties of the world—have we, I say, reached, already, the degenerate age of the Caligulas, of the Neros, of the Domitians, of the Heliogabaluses? Is the open profession of a spy—this most disgraceful of all professions—to receive among us the dishonorable honor of being publicly countenanced? Is any respect due to the testimony of a man who thus professes himself to be the tool of an employer, and that employer a supreme judge, and a chancellor sitting in his judicial capacity? Is our reputation, is our standing, is our liberty, to be placed at the disposal of men, who, although armed with unlimited authority, do not blush to descend to the low, mean, dirty artifices of the tyrants who, before them, have disgraced their age and country, and do not hesitate, unblushingly, to confess the disgraceful act? With that man, Doctor J. C. Bronaugh, I shall have nothing to do. I have nothing to say to him. The part which he descended to act is the best refutation of his testimony.

Yet, before I dismiss him, I cannot help observing how useless it was for General Jackson to have taken the trouble to direct that man to pay strict attention to our conversation; for the General himself seems no bad hand at recollecting. Both recollect very nearly the same thing; except, however, as to the word *importunities*, which is replaced in Doctor Bronaugh's letter by the words *urged by*; words, by the bye, of not exactly the same import, if I understand any thing of the En-

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glish language. The entire conformity in the deposition of Doctor Bronaugh may, however, originate from the circumstance of his having, as he says, copied—not written, no, by no means—copied the answer of General Jackson to me; a new mode, to be sure, in our country; but (who knows?) perhaps a very good one for a witness to refresh his memory.

The next witness produced by General Jackson is Mr. Rutledge, to whose testimony, marked No. 4, I have already referred. Who can read Mr. Rutledge's letter to General Jackson, and not be struck with the hard struggle in the conscience of the honest young man? We see no such workings in the round statement of the first witness. It is true that Mr. Rutledge states "that I endeavored, by adducing the peculiar circumstances under which the writ had been issued, to offer something equivalent to an apology for the course I had pursued." Now, sir, I do believe that Mr. Rutledge has stated what he candidly believed was the truth; only Mr. Rutledge (and who in his situation might not have been similarly impressed?) makes use of the word *apology* for the word *justification*. What Mr. Rutledge alludes to, must be that part of the conversation in which General Jackson contended for the powers belonging to the Governor of an independent State; in which case, I freely confessed that if Colonel Callava had been confined by a State authority, I should have had no right to issue the writ; but that, in the present case, whether confined by the Captain General, or the Intendant, or the Governor, or, or, or, he still was confined by the authority of a person deriving his powers from the United States, and that, in that case, I had a right to interfere.

Mr. Rutledge further states "that I gave General Jackson distinctly to understand that I was determined not to interfere, in future, with any of the branches of his administration."

Sir, I have said so many times in answer to General Jackson, who (upon what ground God only knows, unless it be on the principle of the wolf in the well known fable of the wolf and the lamb) has been complaining of my interfering with his authority ever since my arrival here, that I never had, never intended, and never would interfere with his authority; that, I dare say, Mr. Rutledge heard me say so again on that occasion. But, sir, Mr. Rutledge is mistaken when he adds the words *in future*, if he understands these words as having a reference to the course I had pursued in granting the writ of *habeas corpus* in the case of Colonel Callava.

And here, sir, ends the testimony triumphantly produced by General Jackson. I may be permitted here to ask, why Mr. Rutledge did not give testimony as to the other heads of accusation contained in General Jackson's letter? Mr. Rutledge states that he was present at the whole of the conversation. Strange, indeed, that he should make no mention of the "importunities of John Innerarity; of my having confessed that I had acted hastily, without due consideration, and without proper information as to the facts of the case."

Sir, although Mr. Rutledge may not boast a retentive memory; although he did not pay, at the time, a particular attention to the words I used; yet, if I had held such or similar language, it is impossible that Mr. Rutledge should not have recollected something of it. What, then, are we to think of his silence? That the language attributed to me, or any similar language, was never held by me.

It may, perhaps, be said (for what may not be said?) that Mr. Rutledge answered only such interrogatories as were put to him. But, sir, who put the interrogatories? Mr. Rutledge is not a witness for me. He is produced by General Jackson; and can it be believed that, if General Jackson had anticipated from Mr. Rutledge an answer favorable to his views, he would have abstained from putting the questions to him? No, sir. That he did not put them, is conclusive evidence that he could not expect that Mr. Rutledge would prove them; and, as far as Mr. Rutledge is silent upon those points, his testimony cannot be interpreted otherwise than as a positive denial of the charges made against me by General Jackson.

Parting respectfully from Mr. Rutledge, again, sir, I must sum up courage to follow General Jackson himself through the muddy road which he has selected; again, I beg pardon for quoting his indecorous language. But what can I do?

"That you have the hardihood to deny that, when you called by appointment at my house, I did not send for my book to the office containing the records of my commissions and instructions—" The man is mad; I never denied any such thing. "And that I did not read the whole of them to you, shows that you are regardless of truth; and in this I do pronounce that you have stated another deliberate falsehood."

It might be difficult to rebut such a charge, when attempted to be propped up by such a broad assertion. But, fortunately for me, before I could possibly anticipate any such difficulties as now exist between General Jackson and myself, and at a time, of course, when I could have no possible interest in dissembling the truth of a fact, by no means of any importance compared with the odious accusations of General Jackson, to wit: in my letter to you sir, under date of August the 20th—I say, that "General Jackson communicated to me such parts of his several commissions as he conceives admit of a construction entirely at variance with that which I put, both upon my commission and your letter." As to his instructions, I never thought of asking for a communication of them. Since that time no communication of the kind took place between us, until, as stated by Mr. Rutledge in his letter, in our interview of the 24th of August, in his office, he again read either part or the whole of one of his commissions. The fact, however, is comparatively of so little importance, that it is still more to be regretted that General Jackson should have indulged in such foul language on the occasion.

The last paragraph of General Jackson's letter needs not to be transcribed. I refer you to the copy of it which I enclose, marked No. 6. It requires

but few comments. In that paragraph the General, for the first time, to my knowledge, speaks of his legitimate powers. Would to God he never had exceeded them! The whole country would not now be thrown into a state of confusion and anarchy, calculated to imprint indelible disgrace on the American name.

One or two more observations, sir, suggested by this last paragraph, and I wash my hands of all the impurities necessarily contracted by the indispensable obligation in which I was to hold any communication with General Jackson.

"Recollect," says he, "the admonition I gave you," &c.—See his letter, No. 6. But, sir, to what purpose, I may ask, did the General give me the admonitions referred to, if it be true that I had apologized to him in the manner by him stated? Could the man who should have thus degraded himself by the humblest submission have required admonition? Sir, the uniform system of all tyrants before, whether republicans, emperors, kings, or generals, has been "*Parcere subjectis et debellare superbos*." Who, then, is this Moloch, to be neither conquered by resistance, nor propitiated by compliance?

No, sir, the admonitions were necessary, in the opinion of General Jackson, because I could not be driven from the stand which I had taken. Had I been disposed to abandon it, sir, those admonitions would have been useless; and the best proof that I did neither act nor speak in the way in which General Jackson attempts to represent it, is, that he deemed those admonitions necessary. The truth is, sir, that, tyrant as he is, General Jackson, at the very beginning of the conversation, before Doctor Bronaugh had joined us, had relieved me from any immediate apprehension of confinement, (if this apprehension could have had the effect of making me swerve from my duty,) by telling me that "if I had gone one step farther he would have committed me."

I appeal to Mr. Rutledge for the truth of this statement. What the General meant by saying if I had gone a step farther, I know not. I went as far as I could. He knew that I had no marshal, and that, of course, had I been so disposed, no attachment could have issued. But, be this as it may, I have the word of General Jackson that he was not, at that time, disposed to commit any outrage. To what purpose, then, could I have been induced to make concessions of a nature to disgrace me forever, when thereby I could obtain no additional certainty of relief which was not already secured by the word of General Jackson, if there be any security in the word of a tyrant? A tyrant, did I say? Sir, the word is disgraced by being coupled with that of General Jackson. The word *Jackson*, in future, shall be used instead of the word *tyrant*, whenever a correct idea shall be attempted to be conveyed of those portentous crimes, gratuitously committed, which throw in the shade the former crimes, prompted, at least, although not excused, by the passions of the Jacksons who have preceded him.

"Regardless," says General Jackson, in his last paragraph "of your boast of blood flowing," &c.

Perfectly in character, sir; what tiger, before General Jackson, was not regardless of blood flowing? and why not tiger Jackson, too?

I have emerged at last from the mire in which I was obliged to plunge in pursuit of General Jackson; and here, for the present, I must stop. I feel too much oppressed to go on, and, although uncertain whether my liberty will be spared to allow me time to finish this letter, I must rest a little from my fatigue, before I can resume the noble and erect attitude of a man walking on the plain road of honest truth, in the garb of becoming decency.

SEPTEMBER 8, 1821.

Give me leave now, sir, to recapitulate the material facts arising from the evidence which is under your eyes. I have myself no witness. My only defence is to be found in my very indictment. The only arms I have used have been forged by my enemies themselves. It is out of their own arsenal that I have been supplied with the only weapons for combatting their rage—very limited means of defence, sir, against such a powerful combination; yet, I still hope, not ineffectual. Sir, the outrage committed on the person of the former Governor had struck terror and dismay among the ancient population of Pensacola. "Is this," they said, (addressing me, when they assembled at my house early in the morning after the arrest of Colonel Callava,) "is this the liberty you promised to us? If our former Governor is thus treated, protected as he ought to be by his character and by his virtues, what are we to expect ourselves? Nothing remains for us to do but to leave a country where neither our liberty nor our property is respected, notwithstanding the solemn stipulations of a treaty."

Those, sir, are the very expressions by which both my ears and my heart were lacerated. The loudest consternation was, however, soon assuaged into a more dreadful silence still, by the fear of instant punishment. They were told that they had still a protector in me; that I had both the authority and the disposition to stop the Governor in his mad career of despotic frenzy. With what success I did it, you have seen. Under the impressions created by that state of things, in a newly acquired territory, I went to General Jackson's office, as I had before the honor of writing to you, in a spirit of conciliation. I carried with me my commission, which I showed him, and, by reference to the laws of the United States, I insisted, as above said, on the right of doing what I had done. I selected to go to his office an hour when I supposed that, not being expected, I would find him surrounded by fewer persons, and, of course, more disposed to listen to reason; for I knew it is principally when there is a crowd around him that, in order to show his superiority, General Jackson takes a particular pleasure in using the coarse, vulgar language, which is calculated, in his opinion, and in the opinion of his adherents, and of that class of spectators who, on those occasions, crowd around him, to bring into contempt the persons he addresses; and the higher the station of those persons, the coarser of course, is the

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abuse. In any other part of the United States the results from such an unbecoming course are, comparatively innocuous. Things are soon replaced upon a correct understanding. The case is vastly different here, for reasons too obvious to require a statement from me. I went, then, to General Jackson's. True, I did know, at that time, that Jackson was possessed of the infernal secret of causing the most poisonous waters to flow from the purest source.

In that character of a magician, he has exhibited against me a most atrocious charge. I think I have satisfied you that the evidence arising from his own letters entirely disproves the charge. If it cannot be said to be disproved by his first witness, (Dr. Bronaugh,) I am sure nobody can tell that the charge can receive any support from his parasite testimony. And as to Mr. Rutledge, silent with respect to the most important part of the accusation, he only gives an opinion as to what he conceives I intended to do. The very terms which he uses, "endeavored to offer something equivalent to an apology," proves that Mr. Rutledge, as I before hinted, used the word *apology* there instead of the word *justification*. A man may endeavor to justify; no endeavors are necessary to apologize.

There still remains, however, the bugbear of the declaration which General Jackson told Mr. Scott I had signed, promising in future not to interfere with his authority. Sir, on this occasion I can tell General Jackson, in the language of Shakspeare,

"Sir, spare your threats;

The bug which you would fright me with I seek."

Seek! I do seek it, indeed, sir. General Jackson said there was a document; one of his numerous secretaries said the same thing. Thousands, perhaps, have seen it. Everybody, sir, has seen it but myself; and shall I not be gratified by a sight of it? I have a right to demand it; and, if it be not produced, is there, sir, a name in the English language fit to be applied to the wretches who, despairing to conquer, have not blushed to resort to such vile arts to destroy a man who, in this whole business, can, so far as he himself is concerned, regret nothing except placing too much confidence in a man who, under his own signature, proclaims himself to be equally destitute of truth, of decency, of humanity, and of honor?

I have the honor, &c.

ELIGIUS FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

No. 1.

PENSACOLA, September 3, 1821.

SIR: In answer to the communication from you to his Excellency Andrew Jackson, he stated that he was then engaged, but would reply to it in due time.

He requested me, at the same time, to inform you that the declaration which you signed, promising in future not to interfere with his authority, be deemed an ample apology, you not having the right to issue the writ of habeas corpus; in doing which, you exempted yourself from that punish-

ment which he would have inflicted on any private individual attempting to oppose him in the exercise of his judicial functions. He further stated that your jurisdiction extended only to the revenue laws, and the laws prohibiting the importation of slaves, which you had admitted; and that, if you presumed to issue another writ of habeas corpus, contravening his decisions as supreme judge, he would instantly have you committed to prison; that he would not go beyond his province in the discharge of his duties, and was determined not to submit to that indecorous conduct of which you were guilty in issuing a writ in opposition to his authority, instead of aiding him in enforcing the laws. I have the honor, &c.,

ALEXANDER SCOTT, JR.

The Hon. ELIGIUS FROMENTIN.

No. 2.

PENSACOLA, EXECUTIVE CHAMBER,

September 3, 1821.

SIR: Your note, by Mr. Scott, has just been handed to me, and I am truly astonished at its contents; and, in answer, state, that when you appeared before me in the Executive Chamber, on the 24th ultimo, you did then and there state and acknowledge that you had acted hastily, without due consideration, and without proper information as to the facts of the case, upon the importunities of John Innerarity and some other Spanish gentlemen; and that had you been apprized that Colonel Callava had been committed by me for contempt of my authority, you certainly would not have interfered. And you further acknowledged that you had called upon me several times, in a friendly way, to advise with me as to your jurisdiction, and that I had always told you that it was my opinion you had no other jurisdiction, except so far as the laws of the United States had, by the act of Congress, been extended over these provinces; and that, when I showed you the powers which had been granted to me by the President of the United States, you declared that there was no necessity for your being here, and that you might as well return to New Orleans; and that I replied that you had jurisdiction over the revenue, and the infraction of the laws of Congress prohibiting the importation of slaves. And you did then declare that, hereafter, you would in no way attempt to interfere with my authority.

There was likewise some conversation in relation to the powers of a judge of the United States to issue a writ of habeas corpus in the States, except in particular cases; and I stated to you that, if you were in the States, you would have no right to interfere in the manner which you had attempted here, and referred you to the laws of Congress.

If this was not an apology, I know not what is. I viewed it as such, and dismissed you accordingly, under the citation by which you were brought before me to show cause, &c.

I am, sir, with due respect, yours, &c.,

ANDREW JACKSON.

ELIGIUS FROMENTIN, Esq., &c.

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No. 3.

EXECUTIVE OFFICE,
Pensacola, August 25, 1821.

Major General Andrew Jackson, &c., with compliments to E. Fromentin, Esq., informs him that, in looking over the memorandum of yesterday, the word "verbal" has been omitted in the same. It being expressed by you, and understood by me, that the writing issued by you, styled a writ of habeas corpus, in the case of the confinement of Colonel Jose Callava, for contempt of my judicial orders and decree, was issued by you on the *verbal* application of sundry persons, without petition or affidavit in writing, that every thing may appear as it was transacted, Colonel Walton waits upon Judge Fromentin to ask him to insert in the said memorandum the word "verbal," in the proper place.

ANDREW JACKSON,
Governor of the Floridas, &c.

E. FROMENTIN, Esq., Judge, &c.

PENSACOLA, Sept. 3, 1821.

In compliance with your request that I would explain to you my understanding of that part of the conversation which took place between your Excellency and Judge Fromentin, upon the appearance of the latter before you, agreeably to citation, on the 24th ultimo, relative to these points:

Whether Judge Fromentin did or did not say that, had he been aware of the circumstances of Colonel Callava's commitment, he would not have issued the writ of habeas corpus in his favor, as he had done? and whether he did or did not declare that, in the future exercise of his functions, he would carefully avoid interfering with the lawful subjects of your Excellency's jurisdiction?—

I have the honor to state as follows: That I was present during the whole of the conversation, and, although neither a retentive memory nor a particular attention paid at the time to the words used by Judge Fromentin warrant me in referring to them, yet the impression which remains upon my mind, from the conversation above mentioned, is clearly this: that Judge Fromentin, after hearing the act of Congress, one of your Excellency's commissions, and some other documents, read, endeavored, by adducing the peculiar circumstances under which the writ had been issued, to offer something equivalent to an apology for the course he had pursued, and gave your Excellency distinctly to understand that he was determined not to interfere, in future, with any of the branches of your administration. I have, &c.

E. A. RUTLEDGE.

His Ex'cy ANDREW JACKSON,
Governor of the Floridas.

No. 5.

PENSACOLA, Sept. 3, 1821.

If your Excellency has been astonished at my letter, I may assure your Excellency that I have been no less so at reading your answer. I "acknowledge that I had acted hastily, without due consideration, and without proper information as

to the facts of the case, upon the importunities of John Innerarity, and some other Spanish gentlemen; and that, had I been apprized that Colonel Callava had been committed by you for contempt of your authority, I certainly would not have interfered!" Never, sir, never! My blood recoils at such a statement; its last drop will flow before I subscribe to it. Give me leave to put your Excellency in mind that you began the conversation, and I could scarcely find time to place a word. Nor did you hear me mention Mr. Innerarity's name, nor any other name, until your Excellency asked me who were the persons who had applied for the writ; and then I mentioned Mr. Innerarity's name, with the names of the other gentlemen who, jointly with him, had applied for it. The conversation then turned upon the verbal application for the writ, when Dr. Bronaugh entered, and reduced that part of it to writing. The extent of your powers was the next topic, and you read the act of Congress, and began to read one of your commissions; but neither then, nor at any time, did your Excellency favor me with an entire perusal of your several commissions. On that occasion, as on every other preceding occasion, when our respective powers and duties were the subject of conversation, you insisted on my being confined to the two cases stated by your Excellency; and as that had already been referred to the President, it was unnecessary for me to insist.

It is most assuredly true that I said that I never had nor ever would interfere with your authority, nor, indeed, sir, with the authority of any other man. But, sir, does it follow that I am disposed to surrender the authority vested in me? Assuredly not. Legal authority is one thing; illegal authority is another thing. Upon that we differ. A higher tribunal than yours or mine must of course pronounce.

I have the honor, &c.

ELIG. FROMENTIN.

His Ex'cy GOV. ANDREW JACKSON.

No. 6.

PENSACOLA, September 3, 1821.

SIR: I have this moment received your second note of this day. The first excited my astonishment, it is true; but the second my indignation and contempt; for I did not suppose, until your note now before me furnished the conclusive evidence, that you were capable of stating a wilful and deliberate falsehood. That you have done so in your note of this evening, I do assert, as the enclosed certificates of Dr. J. C. Bronaugh (who was directed by me to pay strict attention to our conversation) and Mr. Rutledge fully prove. That you have had the hardihood to deny that, when you called by appointment at my house, I did not send for my book to the office containing the record of my commissions and instructions, and that I did not read the whole to you, shows that you are regardless of truth; and in this I do pronounce that you have stated another deliberate falsehood. I have barely to add, that I recommend to you to keep within your legal jurisdiction and powers.

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Whilst you do this, all your proceedings will be supported, and all my aid given that may be necessary to carry them into effect. But when you attempt to transcend them, and interfere with my legitimate powers, recollect the admonition I gave you when before me on the 24th ultimo, and attend to it; or you will be treated and punished as you may deserve, regardless of your boasts of blood flowing, &c., which pass by me as the fleeting breeze.

Here, sir, on this subject, our communication closes, as I am too much engaged to read yours.

I am, sir, &c.

ANDREW JACKSON.

ELIGIUS FROMENTIN, Esq.

No. 7.

PENSACOLA, September 2, 1821.

SIR: Agreeably to your request, I have the honor to state that I was present when the conversation took place between Judge Fromentin and yourself, on the 24th ultimo, on the subject of his having issued a writ of habeas corpus in the case of Colonel Callava, and that I paid the most particular attention to every thing which occurred on that occasion; and that you have correctly stated the substance of that conversation in a letter of this date, which I copied, addressed to Judge Fromentin.

After some remarks made by you in relation to his improper and indecorous interference in a case where your authority had been attempted to be set at defiance, and that, too, by force of arms, and, while sitting in your judicial capacity, treated with contempt, Judge Fromentin did acknowledge that he had acted hastily, without due consideration, and without a proper knowledge of the facts; that he had issued the writ of habeas corpus, having been urged to it by a number of individuals; and, being requested to name them, mentioned Innerarity, La Rua, Brosnaham, and some others; and declared, had he been informed that you had committed Colonel Callava for contempt of your authority, while sitting in your judicial capacity, that the writ of habeas corpus would not have been issued; and that, for the future, he should in no way attempt to interfere with your authority or powers. I am, sir, &c.

J. C. BRONAUGH.

His Exc'y ANDREW JACKSON,
Governor of the Floridas.

VII.

Mr. Fromentin to the Secretary of State.

PENSACOLA, September 8, 1821.

SIR: Owing to the departure of the mail from this place two days sooner than the regular mail day, of which I was not apprized until this evening, I am very reluctantly compelled to postpone until next week sending you the copies of the correspondence between General Jackson and myself on the subject of his most atrocious calumny. I am not certain that there has not been even forgery in this business. All I ask is a sus-

pension of opinion until I may be heard; when I pledge myself that there shall not remain the least doubt of my being innocent of the crime of apologizing for issuing a writ of habeas corpus.

I have the honor to be, &c.

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, Sec'y of State.

VIII.

Judge Fromentin to the Secretary of State.

PENSACOLA, September 21, 1821.

SIR: My situation and the situation of the country become more and more desperate every day. When, after receiving my commission, on the very day on which the pretended county court created by General Jackson adjourned, I wrote you that things, of course, would remain *in statu quo* until I should hear further from you, I was under the impression that the court would not sit again for three months to come, and that it would be as easy in six weeks from the time when I wrote, when I expected your answer; and supposed, too, I should have a marshal to remedy the evil already done, with the co-operation of General Jackson himself, who, I believed then, honestly mistook the nature and extent of his powers, and for whose conviction only I wanted to hear further from you, under the hope of being able then to repair the mischief with as little scandal as possible: but the evil is making every day such rapid progress, that I am seriously alarmed at the immense number of suits, both civil and criminal, which are every day tried here, *coram non judice*. The county court holds adjourned sessions every month; and the General is engaged in hearing trials himself, more or less, every day. What his views are, I cannot tell; but I feel serious anxiety when I see him from the bench, which he has usurped, pressing indiscriminately into his service truth and untruth, fair and unfair. No American (much less one who once had such a reputation) could dare to trust his fame of honesty and sense upon the publication of such a rhapsody as was delivered the other day from the bench presided by General Jackson, and published in the *Floridian* of the 15th instant, under the head of "important judicial decision."

I was flattered a few days ago with the hope of being able at last to make an effort to put an end to this horrid state of things. A Mr. Saltonstall called upon me to inform me that he had been appointed a deputy marshal by Mr. Forbes. But, unfortunately, upon an examination of the documents, it does not appear that Mr. Forbes has given the security required by law, or taken the oath, &c.; so that, not being qualified himself, he cannot qualify anybody else. I recommended Mr. Saltonstall immediately to write to Mr. Forbes, and urge him to comply with the requisites of the law, and send me duly authenticated copies of the whole, accompanied with a new commission for Mr. Saltonstall. When this will arrive, I know not. But, upon reflection, what will it avail the public or me, in the present state of things? I can exercise no jurisdiction. The portion of the army

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here is under the orders of General Jackson. The *posse comitatus* would be inefficient. If my life was the only sacrifice to be risked, the law should be obeyed. But, under our government of laws and freedom, the most revolting system of inquisition prevails; and I am compelled to desire, as preferable to what exists here now, even the despotism of Algiers, Tunis, or Morocco. This place echoes with the most outrageous and impious vociferations, and that, too from a place called a bench of justice, against every body who will dare to question the supremacy of the Government. I am credibly informed that commissions have been, or are to be, sent to New Orleans, in order to find out, by depositions there, the name of the writer here whose description of the scenes which have taken place at Pensacola does not exactly tally with the account given by the General and his friends. I write to you with a rope round my neck. I can afford protection to nobody here, much less to myself. I have the honor to be, &c.

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

The Attorney of the United States has not yet arrived.

IX.

Judge Fromentin to the Secretary of State.

PENSACOLA, October 28, 1821.

SIR: I have the honor to send you, enclosed, some strictures upon the opinion delivered by the court presided by General Jackson, on the question of jurisdiction in the case of the heirs of Vidal *vs.* Innerarity. If I had animadverted upon every thing which is objectionable, without opinion, I should have been under the obligation of writing a book. I attached myself only to a few prominent parts of such gross absurdity and perversity as necessarily imposed upon me the duty of a few observations. The rest is so very, very despicable, that it must be left to refute itself.

You will receive, at the same time, an extract from some more copious notes which I have taken to answer such contingencies as future events may possibly create. In the meantime, this extract may not be useless, as it contains some more minute details of the motives of my conduct than I had it in my power to give in the hurry in which all my letters to you giving an account of the transactions here were written, immediately after they had taken place.

The blank left in the extract I send is filled up in the original notes by a narration, in all its essential parts, similar to what is contained in my former letters, and which I deem unnecessary to repeat here.

Allow me, in conclusion, to declare that, had I to go the same ground over again, I would again do what I have done. More than two months' reflections have confirmed me in the correctness of the course I pursued. I am desirous of the approbation of my country; but I am more desirous of the approbation of my conscience; and, turn things as they may, I have secured that approbation.

I have heard yet neither from the marshal nor from the attorney of the United States.

I have the honor to be, &c.

ELIGIUS FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

[EXTRACT.]

There is to be observed in the conduct of every man a motive of action, which may be called radical, and which, when correctly ascertained, gives to an accurate observer the key of actions apparently not to be accounted for by any known rules. This is strongly exemplified in the conduct of General Jackson. From the moment he was appointed Governor of the Floridas, he seems to have been entirely overpowered by the madly gratifying belief that he was to be then omnipotent. And, indeed, to hear him speak, and to test his speeches by his deeds, one would be apt to think that this omnipotency was the *sine qua non* condition of his condescending to accept of the office. Mr. Brackenridge told me, himself, that the General was raving when he first saw the list of appointments which had been made for both the Floridas. His resentment knew no bounds, and the gratification at his own appointment was lost for a while in the mortification he experienced at the non-appointment by the President of the characters he had recommended for the several offices in these provinces. He accordingly lost no time in taking such steps as could enable him, when the opportunity should offer, and when necessity, in his opinion, should require it, to secure to himself that absolute despotic authority for which he panted, entirely regardless of that portion of authority vested by the President in the officers who were, jointly with him, to administer, in its several branches, the Government under his direction. His advisers on the occasion, he himself told me, were H. M. Brackenridge and Abner L. Duncan, esquires—Abner L. Duncan, the friend and adviser of all the tyrants, be they who they may. The notorious Abner L. Duncan, who, in New Orleans, in 1807, advised General Wilkinson to a perjury, was pre-eminently entitled to become, in 1821, the adviser of the unconstitutional, iniquitous, and tyrannical measures but too faithfully pursued since by General Jackson. *

* * * * *
The 22d day of August arrived. On that day I had been informed that the county court created by General Jackson was to meet again on the 1st of September, and, anticipating the fatal consequences necessarily to follow from the suits which were to be tried before that pretended tribunal, without any legal jurisdiction, not only for the parties themselves, but even for the judges and other officers of the court, and for the General himself, (all answerable to the parties in damages,) I had determined on that day again to call on General Jackson, once more to endeavor to open his eyes to the impropriety of the course which he had adopted, and which he seemed determined to pursue. The prevention, by all possible means in my power, of a continuance of usurpation preg-

nant with so many irremediable evils, scarcely left room in my mind for any other idea. Unable to administer justice myself, both because my jurisdiction was not acknowledged, and because the necessary officers of my court, through whom I might have attempted to enforce my jurisdiction, had not arrived, I thought it my most imperative duty, imposed by my commission, to neglect nothing at least that could put a stop to the scandalous and calamitous usurpation of my jurisdiction. The events of that day prevented my visiting General Jackson. I retired early to my house. In the night Colonel Callava is arrested; the next day I issue a writ of *habeas corpus* upon the application of some of his friends; the General refuses to permit it to be obeyed. All at once the volcano, where the jarring elements of an overwhelming destruction had been for some time working in silence, makes its eruption; the General sends me his celebrated order of the 23d of August; the Constitution of the United States, the laws of Congress, the commissions of the President, are all trampled under foot. The revolution is complete; and the Jacksonian * Commonwealth, which till that time had tried to worm itself into a sort of a miserable hanging life on the walls of our town, is actually spewed into existence.

General Jackson has now crossed the Rubicon. The country was invaded—conquered. Whether the usurper be a foreigner or an officer of the Commonwealth, does not alter the question, except so far only that, in the present instance, it makes the usurper more guilty. The flag of the United States, still permitted to wave here, and the uniform of the United States, still worn by the soldiers of the garrison under the orders of General Jackson, only add the crime of profanation to the crime of usurpation of the tyrant. But, although exercised in the name of the United States, still usurpation, still oppression, still tyranny, still terror, still Jacksonism, rule uncontrolled and uncontrollable over this ill-fated land.

Such were the circumstances in which I found myself placed when I was summoned, in the name of the law, to appear before General Jackson. And what law? And by what judges, and under what auspices, was the application of that law to be made? I confess it, I have no courage against the hangman. I knew that resistance was vain, and that it would be construed as rebellion, and perhaps treason. I was still haunted by the hope that, possibly, I might, by going, find an opportunity of exhibiting before his eyes, in glowing colors, the calamities likely to result to the people of this country, whom I still supposed he could not wish gratuitously to oppress, from the assumed jurisdiction of the county court created by him. This hope I must give up if I should absolutely refuse to go, and should suffer myself to be dragged there by force—the only alternative I had left; and yet, under the peculiar situation in which I was placed, the performance of that duty was almost the only

thing for me to do, not to prove myself undeserving of the high office to which I had been appointed, not for the furtherance of my own views of self-dignity and importance, but for the good of the people, in the best possible way in which I could promote it; and if there was an occasion when the promotion of that good called for an abrogation of self, and for the severe and difficult obligation of fulfilling a hard duty, notwithstanding the obloquy which its performance might subject me to, this indubitably was the occasion. Better, however, be, than appear to be right. In order, then, to try to accomplish my object, I endeavored to steer a middle course. I did not go, in compliance with the order of General Jackson, on the day or on the hour appointed by him, sure as I was that I could obtain nothing from him when surrounded by a crowd. But the next day I determined to go at a time when, not being expected, I hoped I might find him alone. Vain hope! I ought to have recollected that the shark is never to be met with unaccompanied by its pilots.

But is it true that, correct as my motives and right as my conduct may be, still it wears the appearance of weakness? What! the man who issued the writ of *habeas corpus* in the case of Colonel Callava is a weak man! The man who entered the den of the ferocious Jackson with a determination, and who, in this most unequal conflict, did maintain all his rights, is a weak man! The man who, being informed, after more than a week, of the calumnies circulated against him by the minions of Jackson, applies to him for a prompt denial of the charges, is a weak man! The man who, struggling alone against a most unrelenting despotism for more than two months, has borne with becoming equanimity the (to him) honorable neglect of the men in office in Pensacola, from the highest to the lowest, each of whom, in the days of Jacksonian terrorism, strove to manifest his guilty zeal by becoming the willing executors (my ignorance had nearly betrayed me in writing the willing executioners) of the arbitrary will of their master, is a weak man! The man, who, without the assistance of any of the officers of his court, in a small town where there could exist not even the protection of a public opinion; where none were to be seen but oppressors and oppressed; whose silent and impotent pity was the only comfort to be expected; and that town, too, at such a distance from the seat of Government, that, the possibility of preventing evil being entirely out of the question, he was left with no other but the desperate resource that possibly those evils might be revenged—the man, I say, who, thus situated, notwithstanding he is informed of the steps daily taken by the tyrant, by illegally, and I might say inquisitorially, screwing witnesses to find a pretence to accuse and destroy him, still remains at the post assigned to him by his commission, unprotected but by his courage and the strength he derives from a steady adherence to what he deems his duty—that man is a weak man! Well, be it so; my opponents are welcome to the reputation of courage, most nobly manifested in their unanimous support of the many

* Since the taking possession of Pensacola, all the play-bills were headed Jacksonian Commonwealth. I send one enclosed.

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acts of oppression and tyranny of their apostle, in the sacrifice they have made of their own sense of right and wrong, of their understanding, of their probity, of their virtue, of their independence, and, as far as their influence could go, (not far, thank God!) of the independence of their country, at the shrine of their idol. Each and all of these sacrifices required, indeed, a courage which I did not possess. Most noble, thrice noble, high-minded republicans; brave, generous, undaunted freemen; who have had the courage (a rare courage in America, I hope,) of dancing by the sound of the music of their chains; of ringing a whole night those chains in the ears of their master—a sweet music in the ears of a tyrant; of offering up libation after libation in honor of their deity.

Indignation recoils with horror at such prostitution. Thus, after Nero had assassinated his mother, he was called the saviour of Rome; the brave of the day ran to kiss his parricidal hand, and all the people flocked to their temples to return thanks to their gods.

I am not unwilling to admit that, in the number of persons who joined in the dinner intended as a homage to General Jackson, there are some who enjoy, and probably deservedly, a reputation of honesty. Still it is beyond my weak understanding to comprehend that (to make use of the most indulgent expressions) indifference for injustice is not bordering upon cowardice and treason; still I cannot believe that it is not the duty of every honest American to oppose and resist oppression, to execrate and unmask tyranny; and I never can be made to subscribe to the suicidal doctrine of an unhallowed alliance between allegiance and usurpation, any more than to the countrycidal right claimed by some, of remaining neutral between them.

Be it recollected that this man, still reeking with the blood of his victims, had snatched from me the sword of the law—the last outrage of despotism; putting on the garb of justice the better to disguise its tyranny. It is an abuse of words to contend that by going to his office under those circumstances I recognised his jurisdiction over me. As well might it be said that travellers yielding to superior force recognise the legality of the authority of the highway robbers by whom they have been plundered. This is not the case of a man abusing a power legal in itself for the purpose of committing an illegal act in a Government in other respects regular. This is the case of an entire subversion of the government prescribed by the Congress of the United States for these provinces. This is the usurpation of a man who recognises no authority but his own; and this authority has no limits but such as his rage, sometimes perhaps weary, but never satiated, prescribes to him.

What military chief, what executive officer, before General Jackson, ever dared to refuse to acknowledge the authority of the judges, whose mandate they sometimes have refused to obey? What military chief, before General Jackson, ever dared to assume the authority of those very judges, and to claim the right of judging his judge? The abuses of which those military chiefs, in a well-

regulated community, could make themselves guilty, had limits, the extent of which might be calculated beforehand. But who will be bold enough to assign limits to the crimes of which General Jackson may render himself guilty?

Whenever a military chief acted the tyrant in the United States anterior to the tyranny exercised here by General Jackson, there existed an independent population, which secured an independent jury. But here, under General Jackson, there are independent judges! There was a bar, the greater number of the members of which, if not all, were independent. But *here!*—

This mention of the bar leads me naturally to a single reflection upon the conduct pursued here, with respect to me, by persons calling themselves (by what right I know not) members of the bar of Pensacola. Who they are, with the exception of one only, with whom I have been long acquainted, I know not. One of them, named H. Bigelow, the man who, I am informed, wrote and caused to be signed the petition to the President, has lately become one of a band of strolling players, and has left the country. What that man is, can easily be ascertained by that fact alone. What the others are, (not to travel out of the record,) is, I think, abundantly made out by their own conduct towards me; and I might say towards themselves, if they have any self-respect. Strange as it may appear, it is nevertheless true, that those men, (I speak of those who signed the petition,) one and all, have acknowledged and maintained the authority of General Jackson in these provinces as the supreme judge of the land; that they have argued causes before him, and before the court created by him; that the most absurd pretensions, the most extravagant doctrines, by which they conceived the supremacy of their patron could be supported, have been zealously maintained by them; that they, one and all, condemned me for issuing the writ of *habeas corpus* in the case of Colonel Callava. Supposing, then, that they were determined upon lodging a complaint against me, one would have believed that they should have denounced me for issuing the writ. Not at all. General Jackson takes that part of the business upon himself. His faithful auxiliaries, persuaded that it is better to have two strings to their bow, imagine another crime, and, apprehensive lest I may not be crushed by the accusation of usurpation, regardless of the reproach of disgraceful inconsistency to which they make themselves liable, they wheel about and admit, but only to answer their nefarious intentions, (ready, after accomplishing their guilty purpose, to return to their former idolatry,) that the judicial authority was actually vested in me, in order to accuse me of having acknowledged, as they say, that I had no right to issue the writ in question. What predominates in such conduct, whether knavery or stupidity, I am at a loss to determine.

Some strictures on a document published in the Floridian, at Pensacola, on the 15th of September, 1821, under the head of "important judicial decision."

The pretended important judicial decision which

is the subject of the following strictures, having been delivered from the bench by a pretended court, of which General Jackson was president, I have inserted every where the name of General Jackson instead of the word "court."

I pass by unnoticed the long introduction, and what is given as the argument of counsel, in order to come at once to the reasoning of General Jackson.

He first refers to an act of Congress entitled "An act to carry into effect the treaty between the United States and Spain," which says "that all the military, civil, and judicial powers exercised by the officers of the existing Government shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct;" and he logically concludes, from the words of the act, "vested in such person and persons," that, of course, all the military, civil, and judicial powers are vested in one person. In support of this position he reads one of his commissions, in perfect conformity with the law. According to the words of that commission, the powers and authority given are to be exercised "under such circumstances as have been, or may hereafter be, prescribed to him by the instructions of the President, and by law." What the instructions of the President were, I, of course, do not know; but that those instructions tally perfectly with the law, I do not doubt; and what the law is, we have already seen. The whole of the powers cannot be accumulated on the same head. They are to be divided; they are to be vested in such person and persons, &c.

Now, to what powers and authority do the law and the commission given by the President refer? No doubt to those in existence at the time the law was passed, on the 3d March, 1821. And what were the powers and authority exercised by the officers of the existing Government of the Floridas on the 3d March, 1821, and likewise at the time of delivery of the country to the United States? Undoubtedly, the powers and authority arising under the laws originating in the Spanish constitution. "There is no stipulation in the treaty," says General Jackson, "that the sovereignty of Spain over the Floridas should continue in force one moment after the signing of the treaty, and certainly not after the time limited by it for its ratification. In morals and good faith, the sovereignty was from that time in the United States *de jure*, and Spain had only the government *de facto*."

What the General means here, I confess I do not very clearly understand. Does he mean to say that, from the 22d day of February, 1819, to the 17th day of July, 1821, when West Florida was taken possession of by the United States, no law made by the proper authority in Spain for the government of the Floridas could be enforced in the Floridas? This is quite a new doctrine; and if any thing can be more surprising still than the doctrine itself, it is the manner in which it is attempted to be supported. Granting, for the sake of argument, that the sovereignty, from the time

of signing the treaty, was *de jure* in the United States, and that Spain had only the government *de facto*: is General Jackson now to learn that the authority which exercises the government *de facto* has a right to enact and to enforce laws for the country over which it exercises that government *de facto*? The United States claim the sovereignty in virtue of a treaty, not only signed, but duly ratified, over all that portion of West Florida west of the Perdido, from 1803 till 1813. Was it ever contended that the Spanish laws enacted during that long period, which were applicable to that portion of West Florida, ought not to have obtained in that country, as long as that country remained under the government of Spain *de facto*, notwithstanding the government *de jure* had been for ten years vested in the United States?

"The act of Congress to carry into effect the treaty," says General Jackson, "has relation back to that time, as is fully expressed in the ratification not only of Spain but the United States; and the United States are only bound to maintain the inhabitants of the ceded country in the enjoyment of their liberty, property, and religion."

How the act of Congress has relation back to the time of signing the treaty, except by referring to the date at which it was signed for an identification of the instrument, I know not. The King of Spain, in the ratification made by him, more than fourteen months after it ought to have been ratified according to the 16th article of the treaty, was obliged to state, as he does, that "the present ratification should be as valid and firm, and produce the same effects, as if it had been done within the determined period." But what were the effects here alluded to to be produced? Indubitably, the cession of the country to the United States, under the clauses and conditions originally stipulated in the treaty.

But does the General mean that this late ratification must now have the effect of preventing the introduction in the Floridas of any law enacted by Spain posterior to the time when the treaty ought to have been ratified by Spain, after those laws had been actually introduced in the Floridas? Or does he mean that it must have the effect of having possession delivered to the United States on the 22d of August, 1819, although actual possession was not delivered until the 17th July, 1821? This last position is more glaringly absurd, but not more so in reality, than the first. The General may make his choice. But, if his sentence has any meaning at all, I cannot guess at any other it can have.

General Jackson goes next into a long history to prove that the constitution of Spain is not in force in this country. If the General means that the Spanish constitution, as a political rule of government, is not now in force in this country, nobody will pretend to advance any thing to the contrary; but if he means to assert that the laws introduced under the Spanish constitution, as long as the Floridas remained under the Government of Spain, were not introduced in the Floridas, no person in his senses can give assent to such a proposition. Everybody in the United States knows

that, after the expiration of the time within which the treaty was to have been ratified, to wit, after the 22d day of August, 1819, no alteration whatever could have been made by the Spanish Government in the constitution and laws of the two Floridas. Did not the right of Spain to legislate again for those two provinces revive after the 22d day of August, 1819, when the treaty ceased in fact to have any existence at all, no matter by whose act this non-existence was produced? Can it be contended that, when there was no longer any obligation on the part of the United States to receive the Floridas on the conditions stipulated in a treaty which had ceased to be binding upon them, the two Floridas were to remain without any Government at all? or with a Government entirely at variance with the form of government devised by the Cortes for the Spanish empire, of which the Floridas were a part? General Jackson acknowledges that the treaty was ratified by Ferdinand VII. by the consent and authority of the General Cortes of the nation, requisite but for that clause of the Spanish Constitution, which prohibits the King of Spain, without the consent of the Cortes, from alienating, transferring, or exchanging any province, city, town, village, or indeed any portion whatever, be it ever so small, of the Spanish territory? And am I to be told that when the Cortes agreed to the alienation of the two provinces of Florida by the King of Spain, in favor of the United States, the constitution, in virtue of which the alienation took place, was not in force in the ceded territories, which had uniformly acknowledged and submitted to the several forms of government of Spain during the long protracted conflict for authority in that distracted kingdom? Am I to be told that the Cortes stipulated that the inhabitants of Florida, in order to make them more acceptable to the United States, should, previous to the cession of the country, be politically emasculated, that they should be disfranchised of all the rights which had been secured to them by the Spanish constitution, and delivered over to the United States, bound hand and foot, loaded with chains and fetters? Am I to be told that the United States themselves, in giving their agreement to the cession to themselves of the country, under the clause that the ratification on the part of Spain "should be as valid and firm, and produce the same effects, as if it had been done within the determined period," exulted in the triumphant idea that, although the people of the Floridas had been emancipated in the intermediate time, still they might receive and treat them as slaves; that they insisted, as an indispensable preparation for the admission of the Floridians into the grand family of American freemen, that they should first re-assume the disgraceful badges of the slavery which they had thrown off? Such an idea could not germinate but in the head of a Jackson—I should have said in the heart, if a Jackson had a heart.

But General Jackson does not confine himself to reasoning on the subject. He likewise states facts in support of his opinion. Hear him:

"The constitution of the Cortes," says General Jackson, "was only promulgated in the island of Cuba some time in the month of January, 1821, about three months after Spain had parted with the sovereignty of the Floridas; and if it was ever promulgated in these provinces it must have been after that time, and long since Ferdinand VII., in ratifying the treaty by the consent and authority of the General Cortes of the nation, had parted with the sovereignty."

A bold assertion this, indeed! and which I should not have expected even from General Jackson! It is the first, I am sure, and I hope it will be the last time, when an American judge, whether *de jure* or *de facto*, shall have stated from the bench facts positively the reverse of truth, and the falsity of which was known to him. For myself, I had repeatedly put him in mind of the time at which the Spanish constitution was sworn to, both in Havana and in Pensacola. What! in the hearing of the American people, an American judge dare to assert from the bench, that it was only in the month of January, 1821, that the constitution of the Cortes was promulgated in the island of Cuba, when, by a reference to all the public papers of the day in the United States, it will be found that it was promulgated in the Havana on the 16th of April, 1820? The same constitution was duly promulgated and sworn to in Pensacola, in the midst of rejoicings and illuminations, which lasted from the 26th to the 29th of May, 1820. I have in my possession the proclamation of the Spanish constitution in the Havana, and an official copy of the oath administered here in Pensacola, to Governor Callava, on the 26th of May, 1820, when the Spanish constitution was promulgated here. Hundreds were ready to give testimony on these facts at the trial in which this opinion was delivered, but every application to introduce testimony on that subject was overruled; and in the hearing of thousands in Pensacola, who witnessed the celebration of that event on the days above stated, an American judge dares to assert from the bench, that, if the Spanish constitution was ever promulgated in Pensacola, it must have been after the month of January, 1821. Expressions are wanting to characterize such proceedings. Let us throw a veil over them. But what veil, of sufficiently impenetrable materials, can completely conceal from the public eye the turpitude of the unwarrantable assertion? And if it be not completely concealed, what mountains sufficiently high will the perpetrator of the unheard-of deed call upon to fall upon him, to hide him, to cover him, to protect him from the indignant wrath of the offended majesty of the American people?

Shocking, however, as the above is, still I wish the evidence against the usurper could stop here. But what are we to think, what are we to say, when, in addition to the above, notwithstanding the many attempts at reasoning the Spanish laws under the constitution out of existence in the Floridas; notwithstanding the positive assertion that the laws under the Spanish constitution are not in force here, we find that General Jackson himself has acknowledged that those very laws

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were in force here, and has made appointments to offices created by that very constitution? Under what authority but under the authority derived from the Spanish constitution has General Jackson appointed in Pensacola a mayor and aldermen? Under what authority but under the authority derived from the Spanish constitution has General Jackson an alcalde, and that alcalde, too, (Mr. Brackenridge,) the very champion who, in support of General Jackson's doctrine, contends that the Spanish constitution was never promulgated until Spain had parted with the sovereignty of the country? By referring to the date of the commissions of his predecessors in that office, Mr. Brackenridge might have ascertained very easily when the old form of government, and when the Spanish constitution in Pensacola, ceased. The (till now) pure white mantle of justice would shine still in all its lustre. It would not be, as it now is, sullied by a stain—and what a stain!

The last argument of General Jackson squares admirably with all that precedes. He grants that the President has appointed a judge for West Florida; but, says he, the judge is expressly required, by instructions contained in his commission, to consider himself as governed by the laws of the United States. Wonderful discovery, indeed! And what judge of the United States (except, however, General Jackson, who is to be governed by no law) is not governed by the laws of the United States? Is not the act of Congress to carry into effect the treaty between the United States and Spain, under which the judge is appointed, a law of the United States? and, under that law, is not the judge of the United States for West Florida vested with a jurisdiction extending to all civil and criminal matters arising under the general provisions of that law, as well as with the jurisdiction specially given in the same act, in all cases of revenue and of importation of people of color?

The judge (says again the General) must show the instructions he may have from the President of the United States. The judge is not bound to show any instructions. The instructions of a judge are to be looked for in his commission. But, in the present case, General Jackson has not even the miserable resource of screening himself behind this feeble intrenchment. The judge showed to General Jackson the letter which he received from the Secretary of State at the same time with his commission; and what follows is an extract from that letter:

"It will be necessary for you to repair with all convenient despatch to Pensacola, to enter upon the duties of the office, there being reason to believe that the Spanish authorities will have delivered over the actual possession of both the Floridas to General Jackson before this commission reaches you; and, towards the organization of the temporary government under his direction, it may be important that the judiciary department should be put into operation immediately."

Could any instructions connected with the commission of a judge be more positive, if a settled plan of usurpation had not previously been fixed

upon? Here I stop; yet, before I part with General Jackson, let me heave a sigh—a heavy sigh. *Quantum mutatus ab illo!*

X.

Copy of a letter from the Secretary of State to Eligius Fromentin, dated

DEPARTMENT OF STATE,

Washington, Oct. 26, 1821.

SIR: I have had the honor of receiving your letters of the 20th, 26th, and 28th August, 6th, 8th, and 21st September, with their respective enclosures; all of which have been submitted to the President of the United States.

I am directed by him to inform you that the laws of the United States relative to the revenue and its collection, and those relating to the slave trade, having been the only ones extended by act of Congress to the Territories of Florida, it was to the execution only of them that your commission as judge of the United States was considered and intended to apply. The President thought the authority of Congress alone competent to extend other laws of the United States to the newly acquired Territories; nor could he give to the judge a jurisdiction which could only be conferred by them. There being an essential difference between the nature of the powers heretofore exercised by the Spanish authorities in those provinces, which were continued in force by the act of the 3d of March last, until the end of the next session of Congress, unless a temporary government should be sooner established over them, and of the laws of the United States, which were extended to those provinces by that law, the President considered it his duty to intrust the execution of each branch to officers specially appointed for the purpose. In the execution of those laws, in your judicial capacity, the Governor has been informed that you are considered amenable only to the Government of the United States.

In the different view which you have taken of the subject, he is persuaded that your motives and intentions were entirely pure, though he deeply regrets the collision of authority and misunderstanding which has arisen between the Governor of the Territory and you.

I have the honor to be, &c.

JOHN Q. ADAMS.

NO. XI.

Judge Fromentin to the Secretary of State.

PENSACOLA, Nov. 22, 1821.

SIR: Notwithstanding all my exertions I could not obtain, until it was too late to have it forwarded by the last mail, a complete copy of the proceedings had in the case of the heirs of Vidal *vs.* Innerarity. I now send them, (24 numbers.)

Upon further reflection, I concluded that it was more proper for me to abstain from all observations on the subject; and I have, accordingly, confined myself to giving you a short, concise abstract from the Spanish records, to enable you to understand the case.

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I will only add, how unaccountable it appears to me that the statement of the auditors appointed by General Jackson should be said to be unanimous, when that statement is accompanied by a protest signed by one of them; and how much more surprising still it is, that the judgment of the court themselves should be predicated upon the unanimous opinion of the auditors, in the very teeth of the protest; and more so, still, in the very face of the objections, whether right or wrong, made by Innerarity to the report of the auditors, and bottomed upon the disagreement of one of them; which said objections were overruled by the court.

I have deemed it unnecessary to have the proceedings copied, which have been published in nearly all the newspapers.

I have the honor to be, &c.

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, Sec'y of State.

No. 1.

DECREE.—*Let it be done as the Auditor thinks proper.*

AUDITOR'S OPINION.

Considering the character of a deposite in which this party (Innerarity) has the sum belonging to this meeting, and his not being able to claim any more than falls to his share, even were his objections to the account which has been drawn up entitled to weight, as also his inability to retain in his possession, under the motive he has stated, any other sum exceeding his credit: It is my opinion that you can grant him a month's time for the prolix and fruitless examination which he proposes; but on the previous condition that he makes a delivery of the two thousand six hundred and forty-five dollars and two bits, destined for the distribution amongst the other creditors, because he still remains in possession of the part which belongs to him, and because the tribunal has no legal authority to allow him, against the will of those, (the other creditors,) to continue in the enjoyment of a sum which can, by no title whatsoever, belong to him; much less when it is claimed by the rightful owners, and when he still retains it without having accounted for the proceeds of the effects remaining in New Orleans, the sale of which was intrusted to him by this same tribunal more than three years ago.

You will have the goodness to determine upon all this matter in the manner you think most regular.

CARLOS HERNANDEZ.

PENSACOLA, Nov. 20, 1810.

Seeing that Mr. John Innerarity has not complied with the delivery which has been ordered from him, let the present be made known to him for his compliance; or, in defect thereof, let the present be brought back, that the proper order may be taken.

HERNANDEZ.

COLLET.

Passed November 26, 1810.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of the Executive Court, W. F.

No. 2.

PENSACOLA, June 30, 1820.

SIR: In these proceedings, the forms of procedure in all testamentary judgments have not been followed, nor has the still more necessary step of having a meeting of the creditors been taken; but, by making a confused mixture of the one and the other, a perfect labyrinth has been formed of the testamentary acts of the late Mr. Nicolas Maria Vidal, late auditor of war of this province, and assessor general of this Government, which may result from the malice of some individuals, and, also, in a great measure, from the parties interested not having had any lawyer to direct them.

An inventory was not made, as soon as said auditor died, of all his goods, with the formality which ought to have been practised; both because his instituted heirs were minors, and also because a part of his creditors were absent. All the moveable effects and slaves that remained amongst the property of said deceased, being once sold by the executor, who was Cristoval de Armas, it was determined, by the decree passed on the 27th of August of the past year, (1806,) that a meeting should take place in the study of the assessor of the intendency, for the purpose of taking such steps as justice might direct with regard to the cognizance, legitimacy, and graduation of their respective credits, and on the other points on which this decree turns. But neither did such a meeting of the creditors take effect, nor was any other point discussed, at that time, than the alienation of the sixteen thousand arpents of land, situated at Baton Rouge, and that of the furniture, moveables, and other effects which Mr. Vidal, deceased, had in New Orleans, contained in twenty-seven boxes; which he had deposited in the convent of the Ursuline nuns in that city.

This proceeding was followed by sundry incidents, more or less legal, and more or less important to the estate, of which there is no occasion to make any mention for the present.

At this very time, when Cristoval de Armas had not relinquished his charge of executorship, he was ordered, by a decree of the 18th of September, 1806, and its concordat of the 20th of the same month and year, to deliver into the office of the Secretary of State the proceeds of the sales which he had made; which he did, accordingly, to the amount of four thousand one hundred and sixty-six dollars, in cash, as appears from the proceeding entered on leaf 78 of the third piece of this transaction; as, also, of one thousand six hundred and sixty-five dollars ninety-four cents, (6½ reals,) as an *abonare* of Mr. John Forbes & Co., the amount of various effects adjudged at the auction of the property of the late Mr. Vidal, aggregated at leaf 65; adding, that there remained in favor of the estate the debts of Mr. John Anthony Doneau and Mr. Jose Maria de Pefia, by reason of the same adjudication.

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At the instance of said Forbes it was determined, by the decree of the 7th of March, and its concordat of the 11th of the same month, in the year 1807, that the money belonging to this estate, which was found deposited in the Treasury should be transferred to the orders of the house of Forbes & Co. in the same quality of deposite, (Forbes's receipt \$3,066 62½, as appears from the record above referred to.)

He was likewise authorized, by a decree of the 11th of September, in the year 1819, extending to leaf 128 of the above-recited third piece of these proceedings, to receive from Savino Perrin the amount of the adjudication of the sixteen thousand arpents of land, sold to him at vendue for the sum of four thousand one hundred and twenty-nine dollars eighty-seven cents, (six reals.)

Now, the heirs of Mr. Vidal establish, in their petition foregoing, the plea of nullity of the sale of the sixteen thousand arpents of land; and, on the other hand, pray that the house of Forbes & Co. render an account, within a peremptory term, of the sums which it has received of the credits which remained in favor of this estate at Madrid, and in the province of Antioch; as likewise of the proceeds of the furniture, moveables, and effects sold at New Orleans.

To avoid confounding and perplexing this transaction any more, I am of opinion that two separate suits be formed: one, on the nullity claimed by the heirs of the late Mr. Vidal; and the other, for the production, by the house of Forbes & Co., of the accounts, supported by documents, which is solicited on the part of the heirs.

The first ought to consist of the foregoing instance, and of the decision and decree which may be passed; of the documents contained between leaf 100 and 121 of the third piece of the testamentary proceedings, the comments of which were extracted for this purpose, except the taxation of costs found on leaf 111, being thus marked by the assistant witnesses; of the testimony of the acts of the meeting, leaf 58 and 94, the proceeds of leaf 20 and of leaf 99, as well as of the instance of leaf 128; the decree following, and proceeding of the leaf 133 and of 153 of the above recited third piece of this meeting or testament.

Before a resolution and provision is passed in justice, on the nullity of the sale of the sixteen thousand arpents of land adjudged at Baton Rouge, it will be proper to hear the party that ordered their sale, which was Messrs. John Forbes & Co., which company is at the present moment represented by Mr. Innerarity; and, therefore, it is my opinion that, the suit being once commenced, the latter gentleman be informed of the foregoing instance, made in the name of the heirs. As to what regards the account requested by the latter of Mr. John Innerarity, and which he was ordered to produce by the two acts, on the 9th March and 20th November, of the year 1810 past, without their ever having been carried into execution, I am of opinion that he be notified to produce, within the necessary and unprorogable term of ten days, the exact account, supported by documents, which is claimed of him, being warned

previously of the consequences which, on the part of justice, will result in case of his failure to comply.

It is also my opinion that, until the legitimacy of the respective credits of the creditors, (who have presented accounts against the estate by mere private papers, which, in themselves, have no value in law,) be ascertained, he be likewise notified to deposite, within five days, in the national coffers, the sums above mentioned, placed to his orders in the character of a deposite, and the one thousand six hundred and sixty-five dollars ninety-four cents (6½ reals) of the *abonare* of leaf 65; and that, in the mean time, a proper suit be opened on the case, to begin with the testimony of the two *otro sí's* of the foregoing instance, and of this opinion, and the decree that may ensue.

NICOLAS SANTOS SUARES.

His Exc'y the GOVERNOR.

PENSACOLA, July 1, 1820.

I acquiesce in the opinion foregoing, and be it fulfilled in all its parts.

JOSE CALLAVA.

DOMINGO SOUSA.

JOSE CARO.

We this day, 3d July of the present year, notified Mr. Severino Palao, and his wife, of the foregoing decree; in proof of which notification, witness their signatures below, with our attestations.

SEVERINO PALOA,
MERCED. VIDAL.

DOMINGO SOUSA.

JOSE CARO.

On the same day we notified likewise Mr. John Innerarity; as an evidence of which he affixed his signature, which we attest.

DOMINGO SOUSA,
JOSE CARO.

A true copy from the original on file in my office.

J. C. CONNOR, Clerk, &c.

No. 3.

To His Excellency Major General Andrew Jackson, exercising the powers of the Captain General and of the Intendant of the Island of Cuba, and of the Governors of the provinces of the Floridas, respectively.

The petition of Mercedes Vidal Palao, lawful wife of Severino Palao, for herself, and in behalf of other heirs of Nicolas Maria Vidal, deceased, respectfully represents: That, by the annexed decrees of Don Jose Callava, late Governor of this province, a certain John Innerarity, of the house of John Forbes & Co., and which he represents, was ordered, within five days from the 1st of July, 1820, to place in the National Treasury the sum of \$4,163, in money, being a deposite placed in the hands of the said John Innerarity, and appertaining to the estate of the said Vidal; and it was also further decreed, that the additional sum of \$1,665, the property of the said estate, and in the hands of the said Innerarity, should be deposited

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as above specified; and it was at the same time further decreed, that the said Innerarity should, in ten days from the said 1st day of July, produce an exact and documented account of certain goods belonging to the estate of the said Vidal, sold by the said Innerarity in the city of New Orleans.

Your petitioner further states, that, by another decree of the late Governor Callava, bearing date the 10th of July, 1820, the property of the said Innerarity, real and personal, was placed under an interdict, until the execution of the foregoing decrees.

But, notwithstanding the positive and imperious nature of the decrees above specified, the said Innerarity neither paid into the public treasury the amount above mentioned, nor has he exhibited an account of the sales of the property at N. Orleans.

Your petitioner having reason to believe that the said Innerarity is about to withdraw his person and effects from the jurisdiction of this court, without answering the demands against him, she therefore prays that your Excellency may cause the said Innerarity to appear before you, and show cause (if any he has) why the decrees of the late Governor, hereunto annexed, should not be carried into execution. And your petitioner further prays that the said Innerarity be held to give security for the faithful compliance with the decision of your Excellency, or that of such tribunal as this case may be referred to.

And your petitioner will ever pray, &c.

MERCED. VIDAL.

WEST FLORIDA, PENSACOLA,

Executive Office, August 28, 1821.

According to the prayer of the foregoing petition, let John Innerarity be cited to appear before me, at eleven o'clock to-morrow morning, to show cause (if any he has) why the decrees recited in the said petition should not be put in force against him.

ANDREW JACKSON,

Governor of the Floridas, &c.

To J. C. CRAIG, Esq., Alguazil Mayor, or Sheriff, for the city of Pensacola and county of Escambia, to execute and return the same.

AUGUST 28, 1821.

Executed, by citing John Innerarity, and leaving a copy of the foregoing petition and citation.

J. C. CRAIG,

Alg. Mayor and Sheriff.

EXECUTIVE CHAMBER,

Pensacola, Nov. 9, 1821.

The defendant in this cause having requested me to designate, in my certificate, the different handwritings in which it appears, I do hereby certify that the original petition in this cause appears to be in the handwriting of R. K. Call, one of the counsel for the plaintiff; and the order, in the handwriting of H. M. Brackenridge, the other counsel for the plaintiff; and it is signed by Governor Jackson, with his own hand.

JOHN C. CONNOR,

Clerk of Executive Court W. F.

A true copy from the original file in my office.

J. C. CONNOR, *Clerk, &c.*

No. 4.

Petition of Mercedes Vidal.

I, Mercedes Vidal, the lawful wife of Severino Palao, and heir legally constituted by her father, the late Don Nicolas Maria Vidal, Lieutenant Governor and Auditor of War of this province, present myself, with due respect, before you, and state that, in August, one thousand eight hundred and seventeen, my sister Caroline, whose agent I am, filed several petitions in the tribunals of the then Governor of the place, Colonel Jose Mazot, to obtain the papers relating to the will of my above-named father, retained by Mr. John Innerarity; which petitions, when applied for by me in the tribunal of your Excellency, in March, eighteen hundred and nineteen, had no other effect than a continued opposition, supported by malicious contradictions; until, at last, said Mr. John Innerarity, constrained by my petitions and your superior orders, delivered the documents aforesaid, in appearance complete, which we had so long desired in order to bring forward with positive data our right and most just claims, which evidently appear from their examination, and operate in our favor the following incontrovertible injuries:

On the eleventh leaf of the second bundle there appears a decree ordering the aforesaid Caroline Maria Salome, my sister, to choose a guardian *ad litem*, which was not effected, naming by a feigned notification Don Jose Peña, as it is evident from his signature not being affixed, as would have been the case in a real proceeding; and subsequently that tribunal, disregarding the preference of my mother with respect to my guardianship, named one for me of its own accord, in the said Peña; from which it appears that our representation was irregular and illegal.

At page sixty-one of the third book, the executor is deprived of the most honorable part of his trust, obliged as well by this violent procedure, as by having before and afterwards abused him, by asserting that he was settled in New Orleans, which I called to your Excellency's attention, that, at that time, the inhabitants of the province of Louisiana had not been deprived of their privileges as Spanish subjects by His Majesty, but, on the contrary, favored their emigration, by presenting the greatest advantages to their interests; and, in fine, the creditors of my deceased father have assembled and have determined what was necessary and proper in relation to our inheritance, which is sixteen thousand acres of land in the district of Baton Rouge, in the terms expressed from page 113 to 123, maliciously asserting the estate of my deceased father to be insolvent, and in this way fraudulently charging it with his debts, although those from beyond sea are not properly authenticated, and remaining silent with respect to the sum (*abonare*) which the tenth clause of his will expresses.

Our persecutors, not yet satisfied with so many nullities, evade with the greatest subtlety the account to which they ought to be called for the safeguards of the minors, and that information so strongly recommended by law and necessity, and

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without which every thing will continue, as at present, to be done by our enemies, null: therefore, we pray that, on a view of the foregoing, as appears on the records, you will please to revoke and annul whatever may have been done in the aforesaid testamentary proceedings, and sale of the property of our before-mentioned father, and which in justice ought to be done, &c. Also, as soon as the executor (Armas) was deprived of the privilege of his office, to obtain this object, John Forbes renders himself liable to the various demands which he ought to have fulfilled, and they are those set forth in page 3 in book 7; for which reason we pray that John Forbes, and his representative John Innerarity, produce the proper discharges, admitting no excuses or evasions that may still further injure our inheritance, which from the beginning has been so unfortunate. Also, it having appeared on record that the said Forbes seized a deposit in the convent of the Ursulines, in New Orleans, consisting of twenty-four boxes of effects and two jars of China ware, without having ever given any account of the proceeds, as is proved by the order at page 154 of No. 3 of said acts, it is therefore prayed that Forbes, or his representatives, exhibit an account of the distribution of its proceeds.

SEVERINO PALAO,
MERCED. VIDAL.

A true copy from the original on file in my office.
JOHN C. CONNOR, *Clerk.*

No. 5.

Petition of Mercedes Vidal.

SOR. GOVERNOR:

Mercedes Vidal, lawful wife of Severino Palao, in the proceedings which follow in the testamentary acts of her deceased father, Don Nicolas Maria Vidal, auditor of war, and former Lieutenant Governor of this province, before your Excellency, with due respect, presents herself, and says that, by order of the first of the present month, your Excellency was pleased to decree that John Innerarity make the deposit specified, in the national chest; the amount of the credits which were presented against the estate of her said father (by simple private papers, which in law have no avail whatever without the proper authentication,) be ascertained; and also to add to this deposit the one thousand six hundred and seventy-five dollars six and a half reals, the sum (*abonare*) set forth on page 65; but as the fifth day fixed by your Excellency for this effect was completed yesterday, the petitioner has not been informed that the said Innerarity has taken any step in the matter; and taking into view (with all respect be it said) his past conduct, exhibited in the decrees subsequently wrought at her instance, and that her sister, Maria Salome, and whose premeditated — caused improper delays in her just demands, she prays and supplicates that your tribunal may judge it fit to issue an order of execution against the goods of the said John Innerarity, in those which may be necessary for the accomplishment of what has been decreed, preferring, as far as possible, the moveable

and personal property. Therefore, she prays that it may be ordered according to her petition; and that hers is just, &c. Also, in order to secure the rights of the petitioner, that all the property of the said John Innerarity be interdicted until the exhibition of the account, which he is bound to produce, of the effects sold in New Orleans, and reclamations beyond seas, as is expressed in the superior decree of your Excellency, the first of the present month; and the petitioner prays that the same may accordingly be done.

PENSACOLA, July 10, 1820.

As to the principal subject of the petition, let John Innerarity be forced to comply with the same, as provided; and the other, let the prayer of the petitioner be executed, in case that Innerarity shall not perform what has been decreed.

SUARES.

CALLAVA.

A true copy from the original on file in my office.
JOHN C. CONNOR, *Clerk.*

No. 6.

Petition of Severino Palao and Mercedes Vidal.

SOR. GOVERNOR: Mercedes Vidal, lawful wife of Severino Palao, in the proceedings which follow in the testamentary acts of her deceased father, Don Nicolas Maria Vidal, auditor of war, and former Lieutenant Governor of this province, before your Excellency, with due respect, presents herself, and says: That, by order of the 1st of July last past, at the fourth folio of the second parcel of her ulterior claims, your Excellency was pleased to ordain that John Innerarity should present an exact and proved account, which he had formerly, in March and November of the year 1810, been ordered to give, depositing at the same time in the national chest the sums mentioned in the said order of your Excellency of the 1st of the past month; which having been seen by John Innerarity, with the usual delay which he has always manifested in this business, doubtless (with due respect be it said) for the purpose of paralyzing it, as, unfortunately, he has succeeded in doing prior to my presenting the writing which corresponds to the sixth folio of the cited parcel, granting the interdict of the effects of Mr. Innerarity; upon which the superior decree issued of the 10th of the said July, which commands that, as the order has not been complied with by Mr. Innerarity, the said interdict to be of force; which, also, not having been complied with by Mr. Innerarity, all his effects are, as they ought to be, immediately interdicted. Wherefore, I pray that your Excellency will be pleased to order, without delay, the constitutional alcalde of this town, after being duly informed, not to permit the effects of Mr. Innerarity to be transferred or removed from this place, nor those that are in his power, belonging to Don John Forbes, until, as he ought, he fulfils what has been ordered, &c.

SEVERINO PALAO.
MERCEDES VIDAL.

PENSACOLA, August 11, 1820.

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The petitioners, by Brackenridge and Call, their attorneys, further pray, that your Excellency may cause the said Innerarity to appear before you, and show cause (if any he has) why the decrees of the late Governor, hereto annexed, should not be carried into execution, and such other further relief extended in the case as may accord with right and justice. And it is further prayed, that the foregoing petition be taken as part of the petition of Mercedes Vidal, and that a copy thereof be served on the said Innerarity.

BRACKENRIDGE & CALL,
Attorneys for the heirs.

EXECUTIVE OFFICE,
PENSACOLA, August 29, 1821.

The prayer of the above and within petition is granted.

ANDREW JACKSON,
Governor of the Floridas, &c.

To J. C. CRAIG, Esq., Alguazil Mayor, or Sheriff, for the city of Pensacola and county of Escambia, to execute and return the same.

AUGUST 30, 1821.

Executed, by leaving a copy of this petition with John Innerarity.

J. C. CRAIG, *Sheriff.*

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

No. 7.

FLORIDAS, Pensacola, ss.

HEIRS OF VIDAL vs. JOHN INNERARITY.

EXECUTIVE CHAMBERS,
August 29, 1821.

John Innerarity appeared this day at 11 o'clock A. M., agreeably to citation, before Major General Andrew Jackson, Governor of the Floridas, &c. and John C. Mitchell, Esq., (appointed by him to sit with him during the hearing of the case, in the room of Presiding Justice D. Shannon, Esq., who could not attend from indisposition;) and the said Innerarity, on being asked by the court to show cause (if any he had) why the decrees of the late Governor of West Florida, Don Jose Callava, against the said Innerarity, according to the petition of Mercedes Vidal, in behalf of herself and her sister Caroline Vidal, and other heirs of their deceased father, should not be carried into effect; when he, the said Innerarity, made answer that he objected to the petition of Mercedes Vidal, it being in the name of the wife, without the signature and consent of her husband; and, as such, that she had not the right to sue, &c. The objection was for the present overruled, on the ground that this suit had been instituted by the heirs of Nicolas Maria Vidal, deceased; that this petition was filed not to institute a suit, but merely to have carried into effect the decrees already made in their behalf, and which have not been carried into effect. That this petition of Mercedes Vidal has been filed, as well for her

sister Caroline, whose agent she is, as for herself and the other heirs of her deceased father; and, sitting as a court of chancery, we cannot permit the combination or laches of others to prejudice the heirs, particularly to prevent this decree from being carried into effect, to the prejudice of Caroline Vidal, one of the heirs legally represented by her sister. If this could have been taken advantage of, it ought to have been done before the decrees had been made, by plea in abatement; that it is now too late to make this objection, when one of the heirs is legally before the court, praying, as the other heirs have often done before, that these decrees may be carried into full effect; and particularly when the petition of Severino Palao (husband) and Mercedes Vidal, his wife, under date of the 11th of August, 1820, is presented to the court, and which has not been acted on, and which the counsel for the heirs of Nicolas Maria Vidal, deceased, (Henry M. Brackenridge and Richard K. Call, Esquires,) pray may be received as an amendment to the petition of Mercedes Vidal, in behalf of herself and her sister, Caroline, and other heirs of Nicolas Maria Vidal, deceased; which amendment is granted. The said Innerarity then prayed the court for a continuance of this cause for a longer period of time, in order that he might make a full defence and objection, and show cause why the decrees against him should not be carried into effect; and, in compliance with the prayer of the said Innerarity, the court granted to him an extension of time to the sixth day of September next, at ten o'clock A. M., at the Executive Chambers, where this cause will again be heard, and to which day this cause stands continued. The said Innerarity then prayed that he might be suffered to take with him, for perusal and examination, the papers or books relating to this case, on his giving to the alcalde of the city of Pensacola (H. M. Brackenridge, Esq.) a proper receipt for the same, and for their return; (which papers or books are specified in the receipt;) and, the said Innerarity having executed such receipt, the court granted his prayer.

Done at the Executive Chambers, and in open court, the 29th August, 1821.

Test: **JOHN C. CONNOR,**
Clerk of the Executive Court.

No. 8.

Petition of John Innerarity.

May it please your Excellency:

Don Juan Innerarity, a Spanish citizen, and resident of Pensacola, reserving to himself the plea at law of *coram non judice*, and every other plea, special and general, *de jure*, under the ægis of your Excellency's proclamation, in answer to the prayer of Messrs. Brackenridge and Call, subjoined as an *addendum* to the copy (which has been served on me) of a petition of Severino Palao and his wife, Mercedes Vidal, free people of color, purporting to be addressed to the late Governor of this province, Don Jose Callava, and to bear date so far back as the 11th of August, 1820,

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and without the slightest shadow of notarial or other evidence that the same was ever presented to the said ex-Governor in his capacity of military judge, or in any other whatever, most respectfully represents: That the said Messrs. Brackenridge and Call have not legalized their representation as attorneys for the said Severino Palao and Mercedes Vidal, agreeably to the Spanish laws, contained in the laws of the Partidas, lex. 10, tit. 5, p. 3, and in Febrero Adicionado, tom. 3, part 1, cap. 14, art. 15, which states that "no one can appear at law for another, unless under a power of attorney *in scriptis*, excepting in the following cases: the husband for the wife; the relation for the relations of the nearest consanguinity, as far as the fourth degree; or for his servant or kinsman; or by reason of the manumission of slaves, who can appear at law *ille pro illis*, without a power of attorney from the party interested, unless the latter should resist the proceedings. Heirs, also, who possess undivided property, and partners of a firm, can also appear at law, provided to their so appearing at law they shall previously give bond and security, under a penalty that the parties whom they represent shall consider as valid all that may be done and performed in the suit, and, if they should not adhere thereto, they and their securities shall pay to the contending party the penalty imposed on them; but the bond and security ought to be exacted previously to the showing cause, or to the reply in defence." Your exponent could cite several other orthodox authorities; but, as they are all to the same purport, he considers that it would be a work of supererogation.

Your petitioner, therefore, most respectfully begs that Messrs. Brackenridge and Call may qualify their representation *in forma legis*, by proper instruments *in scriptis*, and that the security required by the Spanish laws may be given, and notarial copies thereof annexed to the proceedings, giving to your petitioner a *traslado*, or sight of every thing had or done in the premises, on the ground that what is not done in proper legal form is not done at all in the eye of the law. With this evidence, and that of the eventual indemnity provided by law, your petitioner will then answer to the unfounded claim of the plaintiffs, and show cause why the interlocutory decrees referred to in your Excellency's citation should not be enforced. All which he most respectfully submits, and claims the protection of the laws and of your Excellency, as the guardian in your high capacity of superior political chief of the Floridas.

For the purposes which your petitioner will hereafter show, he begs leave to advert to the circumstance of the claimants' having fixed a date to their memorial, for which they have furnished no precedent in their other occult petitions; nor is the *modus operandi* at law.

Rogo ut ante.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

No. 9.

Plea of John Innerarity.

JOHN INNERARITY, *ads.* MERCEDES VIDAL.

And this defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the petitioner's said petition contained to be true, in such manner and form as the same are therein alleged and set forth, for plea unto the said petition, saith: That this honorable court hath no jurisdiction of the subject-matter of said petition, and cannot lawfully take any cognizance thereof, nor pronounce any decree, or enter upon any judgment in the premises, that will or can be binding or obligatory on the parties. All which matters and things this defendant is ready to aver, justify, maintain, and prove, and humbly prays judgment whether this honorable court will take further cognizance of the complaint in the said petitioner's petition contained, and to be hence dismissed with his reasonable costs by him in this behalf sustained.

SAMUEL ACRE,

Attorney for the defendant.

A true copy from the original on file in my office.

JOHN C. CONNOR,

Clerk of Executive Court, W. F.

No. 10.

Petition of John Innerarity.

To His Excellency Major General Andrew Jackson, exercising the powers of the Captain General and Intendant of the island of Cuba, and of the Governors of the provinces of the Floridas, respectively:

John Innerarity, on whom a rule has been served to show cause why the decrees recited in the petition of Mercedes Vidal should not be put in force against him, respectfully shows, by way of answer to said petition, and why the said decrees ought not to be enforced, that the said decrees have no operative force, and are not binding in law:

1. Because the said decrees are founded on a suit to which the said John Innerarity has never received any citation to appear, and of the institution and pendency of which he has never been notified, as required by law.

2. Because the said decrees themselves have never been notified to him after the making and entering up thereof, as required by the Spanish laws; and, therefore, for this reason, are null and void.

3. Because, by the laws of Spain, simple decrees are never final until they have progressed to the definitive sentence, three times solemnly adjudged in the manner prescribed by law, in the presence of the parties thereto, after due notification.

And the said John Innerarity further shows to this honorable court, that if the said decrees had been clothed with the necessary legal formalities, still, *in foro conscientie*, they ought not to be enforced:

1. Because the subject-matter of the suit in

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which they are entered up had, long previously thereto, to wit, in the year 1810, been settled and put at rest, by the competent tribunal, upon due examination and deliberate consideration, and after ample notice to all the parties interested, or in anywise concerned therein.

2. Because all the deposits which have been made with Mr. John Forbes have been paid over to the proper persons appointed to receive them, under the orders or decrees of the proper tribunal; and because the particular deposits specified in the said decrees have, in truth and in fact, never been made.

3. Because the goods belonging to the estate of Vidal, in the said decrees alleged to have been sold by John Forbes in New Orleans, and of the sale whereof the said John Innerarity is by said decrees required to render an account, were not, in truth and in fact, sold by the said John Forbes, nor by the said John Innerarity, but were sold by the sheriff of the city of New Orleans, under a judgment of the superior court of the Territory of Orleans, as will more fully appear by the record of the said judgment herewith accompanying, marked A, and which the said John Innerarity prays may be received by this honorable court as a part of this his showing.

And, moreover, the said John Innerarity shows, that all the deposits which have been made with the said John Forbes, of moneys belonging to the estate of Vidal, were made with him in his own individual capacity, and not with the house of John Forbes & Co.; that he, the said John Innerarity, was, at the time of said transaction referred to in said decree, a minor, and not one of the firm of Forbes & Co., nor in anywise interested therein; hence not responsible, as he humbly conceives, for the liabilities (if any) of John Forbes, over whose conduct he had no control.

And the said John Innerarity further shows to this honorable court, that it is in his power to prove, if permitted, that the motives which led to the institution of the suit whereon said decrees are founded are dishonorable in the extreme, and that they spring from considerations involving the subversion of every moral principle; and hence, that said decrees ought not to be enforced in equity and good conscience even if they had been invested with every requisite formality.

All which matters and things the said John Innerarity doth aver, and will prove, when and where to this honorable court it shall seem meet.

SAMUEL ACRE,

Attorney for John Innerarity.

A true copy from the original on file in my office.

JOHN C. CONNOR, *Clerk.*

No. 11.

Order to Auditors.

HEIRS OF VIDAL, vs. JOHN INNERARITY.

WEST FLORIDA, EXECUTIVE CHAMBER,
September 17, 1821.

In virtue of a decree this day rendered in the above case by Major General Andrew Jackson,

Governor of the Floridas, &c., and John C. Mitchell, Esq., sitting as the supreme court of judicature in this province, you are hereby appointed auditors to arrange and settle the accounts of said estate. And you will appear before me at the Executive Chamber, to take the requisite oath for the faithful discharge of the duties assigned you.

The auditors are expected to appoint their secretary, and (through him) to give due notice to the parties of the period when they will be prepared to enter upon the duties of their office.

The parties, respectively, are to lay before the said auditors a statement, in writing, of their demands or defence, or to appear before them, if they should be thereto required; and the said auditors to have power to call for and compel the production of books and papers, and to require the attendance of witnesses, if the same should be deemed necessary.

JOHN C. CONNOR,

Clerk of Executive Court.

A true copy from the original on file in my office.

JOHN C. CONNOR, *Clerk, &c.*

To F. H. Nesbit, J. De La Rua, and William Davidson, Esqs.

FLORIDAS, Pensacola, ss.

HEIRS OF N. M. VIDAL, vs. JOHN INNERARITY.

EXECUTIVE CHAMBER, Sept. 6. 1821.

This cause was brought up on the 29th day of August last, on citation served upon the defendant to attend and show cause (if any he had) why the decrees in favor of the heirs should not be carried into full effect. The defendant, having made an objection, which was for the present overruled, prayed time to prepare his defence to this 6th day of September, which was granted him for that purpose. On the prayer of Mr. Acre, who appeared this day as the attorney for the defendant, for further time to prepare his defence, it was allowed him to Monday next, the tenth instant, at 9 o'clock, A. M.

ANDREW JACKSON,

Governor of the Floridas, &c.

Attest: JOHN C. CONNOR,

Clerk of the Executive Court.

A true copy from the original on file in my office.

JOHN C. CONNOR, *Clerk, &c.*

No. 12.

Statement presented to Auditors by Plaintiffs' Counsel.

Brackenridge and Call, attorneys for the heirs of Vidal against John Innerarity, submit the following statement, on behalf of the said heirs, to the auditors appointed by the Governor to adjust and settle the accounts of the estate:

John Forbes, with three others, administered on the estate at this place in June, 1806, and afterwards attached the effects at New Orleans for a debt due to his house.

Forbes became responsible for one thousand six hundred dollars purchased at the sale of effects at this place.

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On the petition of Forbes, security was demanded of Armas, the executor; and from that time, we believe, the proceedings will show that the estate was placed under the control of Forbes.

The deposit was withdrawn from the treasury, and placed in the hands of Forbes; and the papers will clearly show that, as to his own debt, he always had more than its amount in his hands. The deposit in the treasury was transferred to him; and when this was applied to the payment of Arroyo's mortgage, the amount of sales at Baton Rouge was placed in his hands by way of deposit in its place. The whole proceeding shows great management, and clearly proves that the affairs of the estate were conducted pretty much at the will and pleasure of Forbes.

By a decree of September, 1806, he was ordered to raise the attachments laid on the effects in New Orleans, and proceed to make sale in the manner pointed out. With this decree he never complied. The property was sold by the sheriff, in pursuance of the improper and illegal seizure which had been made.

The last decree of 1810 recognises that of 1806, as does also that of 1820. This proves that he had never accounted, in a satisfactory manner, to the tribunal; and the probability is, that the record from New Orleans had been uniformly rejected. The property was no doubt sold at a sacrifice; the record can only furnish evidence that it was worth, at least, the amount there specified. They object to the allowance of any thing but a reasonable commission, and claim the balance, with interest from 1806. No other disbursements were, or could be, authorized by the court.

We refer the auditors to the decree of Governor Folch, in November, 1810. It is positive that Mr. Innerarity pay over to the court the amount then in his hands, having become a party, as the representative of the house of Forbes. No discretion of authority is given to make a distribution. This is evidently reserved by the court for itself.

An exact translation of that decree is important. Taken with the decree which follows, we are convinced that there can be no doubt of the intention of the court that the money should be paid into the treasury. Any payments made afterwards by Innerarity were made in his own wrong, and unauthorized; and the receipt of individuals ought to be allowed. Such appears to have been the decision of the auditor in 1820; for we cannot doubt that he refers to such when he speaks of simple private papers. That decree declares these papers to be inadmissible: they prove payments made in direct opposition to the decree. We therefore claim at least the balance remaining in the hands of Mr. Innerarity in 1810, with interest from that date, at 5 per cent.

In the account made by Leiba, there is said to be an error of \$500 in favor of the estate. Domingo Sousa is acquainted with this fact. Errors of this kind can be corrected at any period.

We refer to the decree of the Governor, as confirming that of Saures. We object to the admission of any payments not expressly and specially sanctioned by the tribunals; and we contend that

the record from New Orleans can prove nothing, excepting that the property sold for at least a certain amount, and may serve as evidence against the defendant as to its value.

The deposit in the hands of Mr. Innerarity is declared to be unaccounted for in 1820; as also the amount of property sold in New Orleans. The decree of 1820 required the payment of the deposit into the treasury as a preliminary to the settlement of the accounts; and that part of the decree which states that certain papers had been rejected shows that no credits were allowed, except those which appear in the testamentary papers. We object to all unauthorized payments, although it should appear that the debts have been recognised by the tribunal.

BRACKENRIDGE & CALL,
for the Plaintiffs.

PENSACOLA, September 20, 1821.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

The counsel for the heirs of Vidal except to the report of the auditors appointed to adjust and settle the accounts of the estate, for the reasons following:

1st. Because, by a positive decree passed in November, 1810, John Innerarity was expressly ordered to pay over to the tribunal the balance, amounting to \$2,645, then in his hands; and no authority was given him to pay to the creditors their dividends out of this sum. They were paid by Innerarity in his own wrong, and so it was decreed by Saures in 1820. The utmost he can claim from the equity of the court is the power to compel those whom he has paid to enter satisfaction on the judicial proceedings, and for which a reasonable time may be allowed.

2d. The record from New Orleans can serve but for one single purpose—to prove the value of the property sold. By a decree of September, 1806, Forbes was expressly ordered to raise the attachments, and dispose of the effects by private sale. This decree appears to have been repeated several times in the course of the proceeding, without any alteration, down to 1810, and is also recognised by Saures, in 1820. An account of sales made in the manner forbidden by the tribunal, and a disposition of the proceeds in a manner never sanctioned, is no compliance with the decree of 1806. He is responsible for the whole amount, and with interest from the time of sale.

BRACKENRIDGE & CALL.

PENSACOLA, October 6, 1821.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

No. 13.

Statement presented to the Auditors by John Innerarity.

To the Auditors appointed by the Supreme Judicial court of West Florida for receiving and

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auditing the accounts against, and in favor of, the estate of the late N. M. Vidal.

John Innerarity, in obedience to the decree of the said court, submits the following statement of the deposits of moneys belonging to said estate, and of the sums paid to the creditors thereof, to whom the same were adjudged by the judicial contador, as the dividend to which they were respectively entitled out of the funds belonging to said estate, it having been previously ascertained to be insolvent, viz:

Amount of assets declared by the tribunal to be in our hands in November, 1810, of which sum we are ordered by the said tribunal to pay - \$2,645 2

To Euphrosyne Hisnard, as per her receipt herewith - -	\$1,379 0	
To Terence Le Blanc, paid by our agent, W. Simpson, in New Orleans. - - -		209 2½
To Miguel Esclava, paid by our house in Mobile, as per our books - - -		432 0
To the clerks of the court, by order to pay Nicolet's dividend and costs, as per their receipt herewith - -		512 0½
		<hr/> 2,532 3

112 7

Amount recovered of the sheriff of New Orleans - - -	\$188 6	
Loss, cost of record herewith - -	5 3	
		<hr/> 183 3

Amount remaining in our hands as an offset against \$459½ still due, as declared by the tribunal - - -		\$296 2
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By the above statement, it will be seen that the assets of the estate amounted to - - - - -	\$7,054 6½
The claims against it to - - - - -	6,101 4

And that the creditors yet have a demand against the same for - - - - -	\$953 2½
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consequently, the estate having been unable to pay the accredited demands which had been allowed against it, there can possibly remain nothing for the legatees or heirs; and hence they have no demand against the house of Forbes. If there are any demands against that firm, it is the creditors alone who can make them. Let us examine how the matter stands with them. By the settlement of the estate in 1810, to each creditor was assigned by the judicial contador a dividend proportioned to his claim, and to the quantum of assets to meet the same; and, by a decree of the same year, found on the last page of the proceedings, this respondent, as agent of said house, was ordered to pay over the sum of \$2,645½, the remainder of the deposit, to the creditors; which was done, as above shown, and by the papers herewith presented, and marked Nos. 1, 2, 3, 4, and 5.

It will be remarked that the decree above mentioned orders us to pay, after two months from the date thereof—not into the court, as Messrs. Brack-

enridge and Call supposed—but to pay the money; because the tribunal had no discretion over the claims of creditors in giving a longer time, (*no hay arbitrio en este tribunal.*)

The claims of these creditors were satisfied, as by the receipt of E. Hisnard for the share or dividend allowed her, and that of the clerks of the court for the sums allowed the persons therein mentioned, amply appears. Mr. Forbes, being recognised as the attorney of Don Miguel Esclava, of Mobile, was authorized as such to retain his share or dividend in his own hands, and to settle with him when called upon; which was done, as will appear by an inspection of the original entries in our books.

The record from New Orleans shows how the property in that city belonging to Vidal's estate was disposed of. Mr. Forbes, perceiving that the estate in Florida was not sufficient to pay the debts, brought suits before the superior court of that Territory for the recovery of so much of his debt as the goods might cover, and thus acquired a preference over other creditors as to the value of those goods, he being the first who attached them; however, they not being sufficient to pay his claim against the estate, he came in for an equal dividend of the assets in Florida, which was allowed him in the settlement of the estate by the tribunal here.

The suit being brought in New Orleans for the recovery of a just debt, due by note of hand, this tribunal could have no control over the proceedings of the court there, nor direct in whose favor the judgment should be given; hence, the order referred to by Messrs. Brackenridge and Call has no weight; and, if Mr. Forbes recovered any thing from that source independent of the other creditors, it was a good fortune, procured by his diligence in discovering property in another jurisdiction, to whose courts he had applied for justice, as far as it could be obtained from the means within their power.

It will be remarked, that this suit was defended by the executor of the estate, who seems to have been satisfied with the judgment of the court; therefore, no blame can attach to the conduct of Mr. Forbes in this particular. He was in pursuit of his claim wherever he could find property, and, with all his art and industry, did not find enough to meet his demands; so that, so far from his firm having any thing in their hands belonging to the estate of Vidal, his legal and just claims against the same remain yet unsatisfied.

All whereof is respectfully submitted.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN C. CONNOR, Clerk.

No. 14.

To the Auditors appointed for the investigation of the accounts, &c., of the estate of Don Nicolas Maria Vidal.

GENTLEMEN: In relation to the recognition and payment of the debts due to Esclava and Le Blanc,

Transactions in Florida—General Jackson.

I beg leave to state, that the debt of \$500 due to Eslava was first virtually recognised by the executor, Don Cristoval de Armas, as appears by the proceedings. In the various stages of those proceedings, Mr. Forbes was admitted by the tribunal as the representative of the said debt. It was further formally recognised at the judicial meeting of the creditors, and finally and definitively recognised by the tribunal itself, in the formation of the judicial account by the auditor appointed for the purpose, who assigned \$432 as the *pro rata* share in the distribution of the assets. I repeat that Mr. Forbes acted throughout as the attorney of Eslava, and the proof of the payment is on the face of the books of John Forbes & Co. in the most authentic form; and regular mercantile books, agreeably to the Spanish laws, are admitted in all tribunals as bona fide evidence of the first grade.

The evidence of the payment of Le Blanc's debt, or the *pro rata* share assigned to him by the tribunal, (say \$209 2½) is to be found in the books of the late William Simpson, a partner of John Forbes & Co., and who managed their establishment in New Orleans. I have not in my possession either the books or papers of the said Mr. Simpson; part of them are in New Orleans, and a part in Mobile. Had I had any anticipation of the present course of proceedings, I would have been prepared. A strong collateral proof of its payment is, that no other demand has been made of the same; and all that can be required of me is to satisfy the parties, if, by any remote contingency, we should be legally called on. Any thing beyond this would be travelling out of the record, and overstepping the rubicon of the law.

I have only further to observe, that, if any exceptions should be taken to any thing had or done touching the accounts of said estate, Messrs. Brackenridge and Call pledged themselves to my counsel, Mr. Samuel Acre, to afford me sufficient time to give him information thereof, so that he may come forward and set every thing in a legal point of view. He has also pledged himself immediately to come here, and would have remained but for his full conviction that every thing was in proper form. I doubt not that I shall be allowed the full benefit of Messrs. Brackenridge and Call's pledge, because it would be dealing very harshly with me to deprive me of the aid of my counsel, who was obliged to return on family affairs. He expressed his conviction that his return here would not be necessary, but, in the event of my giving him information of its being requisite, promised that he would come to my relief instantaneously.

One more observation, gentlemen, and I have done. You have borne testimony to the very regular and elegant manner in which the books of John Forbes & Co. appear to be kept. As to the basis of good faith on which the whole of the transactions rest, I flatter myself you cannot have a shadow of doubt. All which is most respectfully submitted by, gentlemen,

Your most obedient servant,

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk Executive Court W. F.

To the Auditors appointed by His Excellency the Governor to investigate the accounts of the estate of Don Nicolas Maria Vidal.

GENTLEMEN: As it has recurred to my memory that some observation was incidentally made by your board in relation to the two hundred dollars paid to Mr. Livingston, it becomes my duty respectfully to state to you, that the said sum was paid by an order of court, on motion of Mr. Livingston that all the expenses, costs of court, and charges of office, should be paid, and deducted by the sheriff, and the net proceeds delivered over by him. This was done accordingly, as appears by the sheriff's account; the balance (\$188 75) was paid by him into the hands of Mr. William Simpson, the partner of Mr. Forbes, and the director of his house in New Orleans. Had it been otherwise, Mr. Livingston would have applied to Mr. Simpson for his fees, and not to the sheriff.

I again beg leave to impress on your attention that the sum in question was not paid by the volition or act of Mr. Forbes, because, in my humble opinion, here the line of distinction is to be drawn. Let us examine how Mr. Forbes would be affected by another construction of this transaction—*exempli gratia*: Suppose it be said Mr. Forbes shall have the benefit of what was received in New Orleans, which was - - - - - \$188 06
But he shall bear Mr. Livingston's charges 200 00

Difference against Mr. Forbes - \$11 02

Thus, instead of being benefited for all his trouble, or receiving any thing from this source, he would, by this *modus operandi*, actually sustain a loss of \$11 02. Such a recovery would be an *Irreism*, and such a mode of procedure an inversion of all justice; but far be it from me, gentlemen, to interfere with your province, and still further to suppose that such a course could for a moment meet your sanction. Language has no sign or equivalent to characterize such an anomaly.

This mode of stating the case is so palpably obvious, that I have to beg your pardon for thus burning candles by daylight, gratuitously discussing intuitive truth which requires no illustration.

I have the honor to be, very respectfully, gentlemen, your most obedient servant,

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

No. 15.

TERRITORY OF ORLEANS, *to wit*:

Be it remembered, that, on the 7th day of July, in the year of our Lord 1806, into the superior court for the Territory aforesaid, came John Forbes & Co., of Pensacola, in West Florida, by their

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attorney, Edward Livingston, and filed their petition in the words following, to wit:

To the honorable the Superior Court of the Territory of Orleans.

The petition of John Forbes & Co., of Pensacola, in West Florida, humbly sheweth: That Nicolas Maria Vidal, late auditor of war in the province of West Florida, was, at the time of his death, indebted to your petitioners in the sum of \$3,361 50, for money lent, and for goods, wares, and merchandise delivered to him in his lifetime, as appears by the annexed account and affidavit. And your petitioners show that they have not been able, in West Florida aforesaid, or elsewhere out of this Territory, to discover any assets sufficient to pay or secure their said debt, but that they had been informed, and verily believe, that sundry valuable effects belonging to the said Nicolas Vidal were, previous to his departure from this place, deposited in the Ursuline convent, in this city, where the same now are. Your petitioners, humbly pray that the said effects may be seized and attached by the sheriff of the city and county of New Orleans, and that the same may be sold, according to law, to satisfy your petitioners' debt, with interest and costs. And your petitioners, &c.

EDW. LIVINGSTON,
Of counsel for plaintiffs.

Edward Livingston, attorney in fact, by substitution of John Forbes & Co., being duly sworn, doth depose and say: That he has been informed, and verily believes, that there are in the convent in this city several trunks of effects belonging to the estate of the within-named Nicolas M. Vidal, under the care of Mrs. Xavier, the superior of the said convent.

EDW. LIVINGSTON.

Upon which said petition the following endorsement was made, to wit:

"Let an attachment issue accordingly. July 7, 1806."

"J. B. PREVOST."

Here follow the documents referred to in the foregoing petition:

Estate of Don Nicolas Maria Vidal, late auditor of war in this province, to John Forbes & Co. Dr.

1805. December 14th. For this sum lent him - - -	\$3,000 0
June 18th. For amount of sundry merchandise furnished him before his death - - -	261 4
Errors excepted :	<u>\$3,361 4</u>

JOHN FORBES & Co.

PENSACOLA, June 18, 1806.

Before me, Don Vicente Folch y Juan, Governor General of His Majesty's province of West Florida, &c., personally appeared John Forbes, a partner in the house of John Forbes & Co., of this place, who, being duly sworn, by placing his hands on the holy Evangelists, depose and saith: That the above sum of \$3361 and 4 reals is truly

17th Con. 1st Sess.—77

and justly owing by the estate of the late Don Nicolas Maria Vidal to the said John Forbes & Co., as appears by their mercantile books, regularly kept. In testimony whereof, he signs these presents, before me and two witnesses, (for want of a notary public, in Pensacola,) this 18th day of June, 1806.

Witnesses present:

PABLO LARIN,
FRAN. XAV. NAVANNO.

Know all men by these presents, that we, John Forbes & Co., of West Florida, merchants, have made, ordained, constituted, and appointed, and by these presents do ordain, make, constitute, and appoint, Mr. George Pollock, of New Orleans, merchant, our true and lawful attorney, for us, and in our name and stead, and to our use, to ask, demand, sue for, levy, recover, and receive all and every such sum and sums of money, debts, rents, goods, chattels, wares, dues, accounts, and other demands whatsoever, which now is, or are, or hereafter may become, due, owing, payable, or belonging to us, or detained from us, in any manner of ways or means whatsoever, by any person or persons residing or being in the district of New Orleans, or in Louisiana; and more especially to attach, sue for, and take into his possession, all property, real or personal, belonging to the estate of Don Nicolas Maria Vidal, deceased, and to hold the same for our account, or so much thereof as will pay the annexed account, with charges of attachment, or otherwise secure us; giving and granting unto the said attorney, by these presents, full and whole power, strength, and authority, in and about said premises, to have, use, and take all lawful ways and means in our name for the recovery thereof; and upon the receipt of any such debts, dues, or sums of money aforesaid, acquittances, or any other sufficient discharges, for us and in our name to make, seal, and, deliver, and, generally, all and every other act and acts, thing and things, device or devices in the law, whatsoever, needful and necessary to be done in and about the premises, for us and in our name to do, execute, and perform, as fully, largely, and amply, to all intents and purposes, as we might or could do, if we were then and there personally present, or as if the matter required more special authority than is herein given, and attorneys one or more under him, for the purposes aforesaid, to make and substitute, and again at pleasure to revoke and displace; hereby ratifying, allowing, and holding for firm, valid, and effectual, all and whatsoever our said attorney shall lawfully do or cause to be done in and about the premises, by virtue herereof. In witness whereof, we have hereunto set our hands and seal, at Pensacola, in West Florida, this 18th day of June, in the year of our Lord 1806.

JOHN FORBES & Co.

Sealed and delivered in the presence of

T. B. MITCHELL,
R. P. JOHNSON.

On the day of the date hereof, before me, John Lyna, notary public for the Territory of Orleans,

Transactions in Florida—General Jackson.

dwelling in the city of New Orleans, duly qualified and commissioned, personally appeared Thos. B. Mitchell, of Pensacola, in West Florida, who, being by me duly sworn according to law, did solemnly swear and say that he was present at the execution of the within letter of attorney; and that John Forbes, one of the firm of John Forbes & Co., of Pensacola aforesaid, executed the same; and that this appearer, along with R. P. Johnson, did then and there sign their names thereto as witnesses.

T. B. MITCHELL.

In testimony whereof, I have hereunto set my hand, with the said appearer, and have affixed my seal of office, this 14th day of June, A. D. 1806.

JOHN LYNA, *Notary Public.*

And afterwards, to wit: At a superior court held for the Territory of Orleans, at the principal, in the city of Orleans, on the 1st day of September, in the year of our Lord 1806:

On certificate of the sheriff, that the property attached in this case is of a perishable nature, it is "ordered that the same be sold, and the proceeds thereof retained until the further order of this court."

And afterwards, to wit: At a superior court held for the Territory of Orleans, at the principal, in the city of Orleans, on the 10th day of September, in the year of our Lord 1806:

Ordered, That Messrs. Rodriguez and De la Rua be appointed, on behalf of the estate of Vidal, appraisers of the property attached, in conjunction with two others to be appointed on behalf of Forbes & Co., by the sheriff of the county of Orleans.

And afterwards, to wit: At a superior court held for the Territory of Orleans, at the principal, in the city of Orleans, on the 25th day of November, in the year of our Lord 1806:

On the motion of Mr. Livingston for the plaintiff, with consent of Mr. Rodriguez, of counsel for the executor of N. M. Vidal, it is ordered, "that the moneys received by the sheriff, on the attachment in the cause, be paid to the plaintiff's attorney; and, that after deducting the costs and expenses attending the suit, as well on the part of the plaintiff as the defendant, the balance be remitted to the proper officer of the Spanish Government, at Pensacola, having charge of the said succession."

I do hereby certify, that the foregoing is a true copy of the original record on file in the clerk's office of the superior court for the Territory of Orleans.

In testimony whereof, I have hereunto set my hand, and affixed the seal of my office, this twenty-fifth day of July, in the year of our Lord one thousand eight hundred and seven.

J. W. SMITH, *Clerk.*

No. 16.

Dr.		George T. Ross in account with the estate of Nicolas Vidal.		Cr.	
To amount of sale of property	\$877 12½	1806.	Dec. 29	Cash paid Cristoval de Armas, by order of superior court - -	\$57 50
				Cash paid J. Rodriguez, by order of superior court, for services rendered N. Vidal and his estate - - -	290 00
				Cash paid E. Livingston - - -	200 00
				Overcharge on sales - - -	15 00
				Sheriff's fees, including commission, advertisements, and storage, cartage, &c. - - -	125 87½
				Balance, paid W. Simpson, esq.	188 75
	\$877 12½				\$877 12½

NEW ORLEANS, September 26, 1807.

I certify the above account to be just and true, and that the money paid J. Rodriguez was in consequence of an order from the superior court directed to me, and for services performed by him as an attorney.

GEORGE T. ROSS, *Late Sheriff.*

Transactions in Florida—General Jackson.

No. 17.

Account of sales of Maria de Vidal's property.

Purchaser's names.	Merchandises.	For what sold.
Bowzu - - - - -	1 lot of china - - - - -	\$6 75
Joseph Nicholas - - - - -	1 pair of sweetmeat pots - - - - -	10 00
Edward Livingston - - - - -	3 pairs of sweetmeat pots - - - - -	21 00
Labother - - - - -	1 set of mantel-piece ornaments - - - - -	3 75
Michell Yardell - - - - -	3 saints - - - - -	18 50
Bertoulin - - - - -	2 looking-glasses - - - - -	17 00
Michell Yardell - - - - -	2 saints - - - - -	5 00
Joseph Nicholas - - - - -	1 pair of shades - - - - -	11 00
Joseph Nicholas - - - - -	1 pair of shades - - - - -	10 00
Bertoulin - - - - -	1 pair of shades - - - - -	13 50
Kenu - - - - -	2 sweetmeat pots - - - - -	8 00
George T. Ross - - - - -	1 glass tumbler - - - - -	2 75
Bowzu - - - - -	1 pair of glass candlesticks - - - - -	1 12½
Rodriguez - - - - -	1 lot of china - - - - -	11 00
Bowzu - - - - -	1 small toilet case - - - - -	20 50
Labrouer - - - - -	4 tumblers, with covers - - - - -	9 50
Cenas - - - - -	6 blue glasses - - - - -	3 00
Cenas - - - - -	4 lions - - - - -	2 25
Labostru - - - - -	2 glass globes - - - - -	3 00
Joseph Nicholas - - - - -	2 glass globes - - - - -	7 00
Joseph Nicholas - - - - -	1 glass globe - - - - -	20 00
Armitage - - - - -	1 large glass globe - - - - -	15 00
Jobert - - - - -	1 large glass globe - - - - -	20 00
Millaudon - - - - -	1 large glass globe - - - - -	12 00
Morel - - - - -	1 fountain - - - - -	7 50
De la Rua - - - - -	1 small benita - - - - -	78
Bertoulin - - - - -	1 lot of glass table ware - - - - -	18 50
James Carrick - - - - -	1 chamber pot - - - - -	5 50
Joseph Nicholas - - - - -	1 cylinder - - - - -	5 00
Aug. McCarty - - - - -	1 pair of lanterns - - - - -	7 50
De la Rua - - - - -	1 pair of lanterns - - - - -	6 00
Kina - - - - -	3 counsels - - - - -	1 50
Md. Lamauriau - - - - -	1 Bonaparte - - - - -	7 00
George T. Ross - - - - -	1 Washington - - - - -	10 00
George T. Ross - - - - -	1 fine print - - - - -	2 50
George T. Ross - - - - -	1 bidet and syringe - - - - -	14 00
Edward Livingston - - - - -	2 china urns - - - - -	93 00
Perullac - - - - -	2 spitting boxes, and two heads - - - - -	1 50
Bernard Genoi - - - - -	2 lustres - - - - -	93 00
Sauve - - - - -	1 set of harness - - - - -	200 00
Dubourg - - - - -	1 secretary - - - - -	105 00
Kalergue - - - - -	2 card tables - - - - -	10 00
Kenu - - - - -	1 wash hand stand - - - - -	3 50
Cenas - - - - -	1 table - - - - -	6 25
Marion - - - - -	1 table - - - - -	5 50
Expenses:		\$862 12½
Cartage and crier - - - - -		\$4 00
Storage - - - - -		35 00
Advertisements - - - - -		20 00
		59 00
Sheriff's fees:		803 12½
Service of attachment - - - - -		\$2 00
Order for sale - - - - -		2 00
Discount on \$862 12½ - - - - -		24 50
Order for appraisements, and appraisements, &c. - - - - -		10 00
		38 50
Urquhart's attachment, sheriff's fees, and expenses - - - - -		764 62½
		13 37½
Carried forward		\$761 25

Transactions in Florida—General Jackson.

No. 17—Continued.

	Brought forward	\$751 25
Cash paid Rodriguez, by order of superior court - - - - -	\$290 00	
Cristoval de Armas - - - - -	57 50	
James Carrick - - - - -	15 00	
Edward Livingston - - - - -	200 00	
		562 50
		\$188 75

Errors and omissions excepted :

GEO. T. ROSS, *Sheriff of Orleans.*
EDWARD LIVINGSTON.NEW ORLEANS, *March 24, 1807.*STATE OF LOUISIANA, *City of New Orleans :*

I, Greenbury Ridgely Stringer, notary public in and for the said city of New Orleans, duly commissioned, do hereby certify that I have this day carefully read and compared the foregoing written document with a certain original document purporting to be an account of sales by the late George T. Ross, as sheriff of New Orleans, dated March 24, 1807, recorded in my current register for this year at page 350, under date of this day ; and that the foregoing is a true and faithful copy of the said original, recorded as aforesaid.

In faith whereof I grant these presents under my notarial firm and seal, at New Orleans aforesaid, this 12th day of September, in the year one thousand eight hundred and twenty-one.

G. R. STRINGER, *Notary Public.*

I, the beforenamed Greenbury Ridgely Stringer, notary public, &c., do hereby further certify, that I was well acquainted with the late George T. Ross, of this city, and for some time sheriff of this parish; that the handwriting and signature of the said George T. Ross is well known to me; that I have examined the signature of "George T. Ross, sheriff of Orleans," to the original recorded document, of which I have certified the foregoing to be a copy; and that I do verily believe the said signature to be the handwriting of the said late George T. Ross, deceased.

In testimony whereof I grant these presents, under my notarial firm and seal, at the city of New Orleans, this 12th day of September, one thousand eight hundred and twenty-one.

G. R. STRINGER, *Notary Public.*UNITED STATES OF AMERICA, *State of Louisiana :*By THOMAS BOLLING ROBERTSON, *Governor of the State of Louisiana :*

These are to certify, that G. R. Stringer, Esq., whose name is subscribed to the instrument of writing hereunto annexed, was, at the time of signing the same, and is now, a notary public in and for the city of New Orleans, duly qualified and commissioned.

Given at New Orleans, under my hand and seal of the State, this thirteenth day of September, one thousand eight hundred and twenty-one, and of the independence of the United States the forty-sixth.

In the absence of the Governor:

P. DERBIGNY, *Secretary of State.*

No. 18.

The undersigned, auditors appointed by the supreme judicial court in the case of the heirs of Nicolas Maria Vidal against John Innerarity, as by commission bearing date September 17, 1821, to arrange and settle the accounts of said estate, respectfully report:

That, conceiving the end of their appointment could only be attained by a strict examination of every particular from the commencement of the proceedings, they have examined the documents throughout with great care and attention, and believe they have obtained a correct knowledge of every thing connected with the subject; and believing a detailed statement would be more satisfactory to the court than any other mode, they beg leave to submit the following as the result of their investigation:

Shortly after the decease of the testator, and before a will was known to exist, an inventory was taken of the effects in this place, which were deposited in a warehouse belonging to John Forbes & Co., and were afterwards sold by Cristoval de Armas, the executor. Upon a petition of John Forbes & Co., in behalf of themselves and others, De Armas was ordered to give security, or relinquish his trust.

Transactions in Florida—General Jackson.

Armas, upon relinquishing his control over the property, submitted the following account, which we find correct, and to embrace every thing up to the time it was made.

Amount of sales of property at auction - - - - -		\$7,313 1
Amount of money found in house - - - - -	\$224 4½	
Expended by Millan Carreras, in whose hands it was placed, for expenses of funeral, &c. - - - - -	192 0	32 4½
Omission in sales: two quires paper - - - - -		1 2
		<u>\$7,346 7½</u>
Paid for paper \$2 and \$3 4 - - - - -	\$5 4	
Crier and drummer at auction - - - - -	21 0	
Baker's bill - - - - -	6 0	
House rent - - - - -	33 2½	
McVoy, house carpenter, by order - - - - -	101 1	
Father Coleman - - - - -	30 0	
Francisco Joute, for corn - - - - -	50 0	
Jose de Clouet, for wood - - - - -	225 0	
Doctor Herrieda, assessor - - - - -	19 0	
Taylor, for articles at funeral - - - - -	3 3	
For hauling two loads - - - - -	6	
Verification of will - - - - -	19 4	
Commissions, 5 per cent. on account received - - - - -	367 2½	912 5
		<u>\$6,434 2½</u>
Due from Casa Luenga; for goods at sale - - - - -	\$292 0	
Due from La Pena - - - - -	85 7	
Due from J. Doneaud - - - - -	69 2	
Due from Vincent Folch - - - - -	77 0	
John Forbes & Co's due bill, viz:		
Bought by them at sale - - - - -	\$319 3	
Bought by Carrera, assumed by them - - - - -	670 0	
Bought by Arroyo - - - - -	507 2½	
Bought by Calderon - - - - -	159 1	
Paid by De Armas to La Pena, presumed included - - - - -	10 0	
	<u>\$1,665 6½</u>	
Amount deposited in money - - - - -	4,166 0	\$6,375 7½
Retained by De Armas, under sanction of the tribunal - - - - -		78 3
Amount retained by tribunal from deposits - - - - -		1,100 0
First taxation of costs - - - - -		\$913 3
Second taxation of costs - - - - -		187 2
Paid La Pena - - - - -	\$85 7	
Due by him, per Armas's account - - - - -	10 0	
Paid him by Armas, and included in Forbes's note - - - - -		95 7
		1 1
Paid J. Doneaud - - - - -	150 0	
Due by him, per Armas's account - - - - -	69 2	
	<u>80 6</u>	1,182 4
Due tribunal for costs - - - - -		82 4
In the hands of John Forbes & Co., received from the royal treasury, 14th March, 1807 - - - - -		\$3,066 4
In the hands of John Forbes & Co., amount their due bill for purchases of effects at auction, and debts assumed by them, deducting \$10 for La Pena - - - - -		1,655 6½
In the hands of John Forbes & Co., amount sales three negroes - - - - -	\$1,200 0	
Paid Millan Carrera by order of tribunal, he to refund should the estate prove insolvent - - - - -	500 0	700 0
		4,129 6½
Paid Millan Carrera, proceeds of sales of land at Baton Rouge - - - - -	\$292 0	
Due from Casa Luengo - - - - -	78 3	
Due from Cristoval de Armas - - - - -	77 0	
In office of the secretary, amount due from Vincent Folch - - - - -		447 0

Transactions in Florida—General Jackson.

In order to ascertain the proportion due to each creditor, it is necessary to add the amount paid Carrera as above, he being obliged to come in the same as the others	500 0
Making the gross assets of the estate, at the time the former judicial account was formed	\$10,499 5
From this sum of \$10,499 and five-eighths must be deducted:	
Balance due the tribunal	\$82 2
Charge for making out the accounts by De Leyva	245 0
Reserved for future costs	70 7
	398 1
	10,101 4
From this deduct amount of mortgage to Arroyo	4,000 0
To be apportioned to creditors	\$6,101 4

Statement of demands against the estate, and dividends agreeably to the above.

John Forbes & Co.	\$3,361 4	dividend	\$2,907 2
Millan Carrera	538 0	do.	465 2½
Miguel Eslava	500 0	do.	432 0
Juan Lacoste	44 1	do.	38 0
Manuel Garcia	36 0	do.	31 3
Terencio Le Blanc	242 0	do.	209 2½
Juan B. Nicolet	600 0	do.	518 4
Cristóval de Armas	138 6½	do.	121 0
Euphrosyne Hisnard	1,590 0	do.	1,379 0
	<u>\$7,054 6½</u>		<u>\$6,101 6</u>
		Deficit	953 0½

The above statements correspond with the judicial account formed in 1810, which is correct in every respect; and, although by it the estate appears insolvent it is evident that it would not have been so had it not been burdened with so great an amount of costs, which, including the charge for the account and the \$70 reserved, amount to \$1,315 5; but even with the addition of the proceeds of the property in New Orleans, there was not sufficient to discharge the mortgage without the sale of the lands.

The amount of funds in the hands of Mr. John Innerarity, as the representative of John Forbes & Co., at the formation of the account in 1810, per statement on page 3 of this report	\$9,552 2
Amount of Arroyo's mortgage	\$4,000 0
Amount of dividend on their claim, per statement page 4	2,907 2
	6,907 2
	<u>\$2,645 0</u>

Paid Sousa and others acting under the authority of the tribunal:	
Dividend to Juan B. Nicolet	\$518 4
Less, due from Casa Luengo	292 0
	226 4
De Leyva's charge for account	245 0
Balance due the tribunal	82 2
Reservation for costs	70 0
	397 2
Less V. Folch's account	\$77 0
Amount overpaid Carrera in \$500	34 5½
	111 5½
Paid Euphrosyne Hisnard, in full of her dividend	1,379 0
	1,891 0½
	753 7½

Juan La Coste and Manuel Garcia, whose dividends together amount to \$69 3, were paid, Mr. Innerarity represents, from the \$70 reserved for future costs by the tribunal.

Cristóval de Armas was entitled to receive a dividend of \$121, less \$78 3, retained by him for his account on 2d page of this report, leaving \$42 5, but received \$57 50 in New Orleans; of course he was not entitled to this.

Amount of dividend to Miguel Eslava charged as paid by John Forbes & Co's house in Mobile, but no receipt produced	432 0
Amount in hands of John Innerarity	321 7½

Transactions in Florida—General Jackson.

Amount of dividend to Terencio Le Blanc, asserted to have been paid by Mr Simpson, partner of John Forbes & Co., at New Orleans, not charged in Mr. Innerarity's book, and no receipt produced	\$209 2½
Leaving unexpended of the \$2,645, being amount of dividends to Cristoval de Armas, Manuel Garcia, and Juan La Coste, which were paid from other funds, as stated in last page	112 5
The property attached in New Orleans was sold, per sheriff's account, submitted to the auditors by Mr. Innerarity, for	\$877 12½
Paid Cristoval de Armas, by order of the court	\$57 50
Paid J. Rodriguez, by order of the court, for services in behalf of estate, which should be allowed, as he is recognised by Armas in his account	290 00
Paid E. Livingston, Forbes's attorney	200 00
Paid sheriff's fees, &c.	125 87½
Deducted for errors in sales	15 00
	698 37½
	188 6
To this add the amount deducted from sales as paid Mr. Livingston, which appears to be his charge for suing out the attachment, and cannot be considered a charge against the estate	200 0
	501 3
Making five hundred and one dollars and three-eighths, which the auditors unanimously find existing at this time in the hands of Mr. John Innerarity in his character of depositary, should the payments said to have been made to Eslava and Le Blanc be recognised as correct by the court.	
But should the court determine the said payments to Eslava and Le Blanc to be illegal, or not properly substantiated, their accounts must be added	641 2½
	\$1,142 5½
No charge is made in the account submitted by John Innerarity of five dollars and three-eighths paid for copy of record in respect to the property in New Orleans, which should be credited, and will reduce the amount absolutely stated against him to	\$496 0
And the provisional amount to	\$1,137 2½

Annexed to this report is a statement of the account, marked No. 1, in the form of an account current, showing the same balance of four hundred and ninety-six dollars. Also, the account submitted by Mr. John Innerarity, which is an exact copy from the books of the house, marked No. 2, stating a balance against the estate, without including the payment said to have been made to Le Blanc of \$677 5½. This difference arises from the whole debt against Vidal at the time of his decease remaining charged as a matter of course; and the omission to credit the \$870 assumed by them for Carrera, which it appears they have not recovered, together with \$100 short credited for sale of negroes, less some small items already credited to estate by Armas, and for which they no doubt accounted with him: all which will plainly appear by reference to statement marked No. 3, which, assuming the balance of \$677 5½ as a basis, and charging, in addition to the foregoing items, the \$200 paid E. Livingston in New Orleans, and the difference between the actual demand of Forbes & Co. and the dividend assigned them, produce the same balance in favor of the estate—four hundred and ninety-six dollars.

Although this sum exists in the hands of Mr. Innerarity, in favor of the estate, he is entitled to receive a proportion towards the payment of four hundred and fifty-four dollars and a quarter, the difference between the actual amount due the house of John Forbes & Co., and the dividend assigned them; and, in case the payments to Eslava and Le Blanc are not allowed him, then to retain the full sum of \$454 25; as the amount, in that case, would be sufficient to pay the other creditors in full.

All which is respectfully submitted to the court.

F. H. NISBET,
W. DAVIDSON,
JUAN DE LA RUA.

PENSACOLA, October 6, 1821.

Test: EDWARD A. RUTLEDGE, Sec'y to the Board.

Remarks of Mr. Juan De la Rua, one of the Auditors.

El abaxo firmado, uno de los auditores, en las diligencias de los herederos de Nicolas Ma. Vidal contra Juan Innerarity, respetuosamente expone: Que no obstante de que ha firmado el informe hecho, y que aparece en lo antecedente, difiere con los otros dos auditores en lo siguiente. En 1º lugar, en quanto á los creditos de Miguel Eslava y Terencio Le Blanc, los que halla á su juicio plenamente reconocidos, fundandose en lo que aparece en la 3a pieza, de f. 88, hta. 90, f. 133, f. 140, f. 147, hta.

Transactions in Florida—General Jackson.

152, y de f. 153, hta. la 154, todo de la misma pieza, mandando por el ultimo decreto, que la distribucion se hiciese. En 2º lugar, que considera bien probado el pago hecho á Eslava por constar de los libros de comercio de la casa de los Señores Forbes y Ca., no hallando prueba de que se halla verificado el de la quota de Terencio Le Blanc. Que discierne ó descordo con los otros dos auditores en el cargo que se hare de los doscientos pesos pagados á Livingston, segure aparece en la cuenta del sheriff de la Nueva Orleans, pues considera que arguellos justos dros que deban pagarsele deben abonarsele por cuenta de la sucesion, ignorando quales deban ser y por consiguiente qual deban ser el cargo ó abona contra uno y á favor del otro: rayado, discierne en rale.

JN. DE LA RUA

A true copy from the original file in my office.

JOHN COPPINGER CONNOR,
Clerk of the Executive Court, West Florida.

No. 1.

John Forbes & Co. as depositaries of the estate of Nicolas Maria Vidal.

Dr.

To amount received from the Royal Treasury, March 14, 1807	-	-	-	-	-	\$3,066 5
To amount goods bought by them, and debts assumed	-	-	-	-	\$1,665 6½	
Deduct either an error in addition, or \$10 paid La Pena by Armas, and deducted from his claim when paid by tribunal	-	-	-	-	-	10 0
						1,655 6½
To amount sales three negroes at auction, in Pensacola	-	-	-	-	\$1,200 0	
Deduct paid Carrera out of this sum, by order tribunal	-	-	-	-	500 0	
						700 0
To amount sales of lands at Baton Rouge, received by them	-	-	-	-	-	4,129 6½
						\$9,552 2
To balance remaining unexpended	-	-	-	-	-	\$112 5
To net proceeds, per sheriff's account of property sold at New Orleans	-	-	-	-	-	188 6
To this sum paid from said sales to E. Livingston, Forbes & Co.'s attorney	-	-	-	-	-	200 0
						\$501 3

Cr.

By amount of mortgage to Don Francisco G. Arroyo	-	-	-	-	-	\$4,000 0
By dividend due them per former judicial account	-	-	-	-	-	2,907 2
By dividend paid Juan B. Nicolet	-	-	-	-	\$518 4	
Deduct amount Casa Luenga's account	-	-	-	-	292 0	
						226 4
By amount paid for making out accounts	-	-	-	-	245 0	
By amount balance due tribunal	-	-	-	-	82 2	
By amount reserved for costs	-	-	-	-	70 0	
						397 2
Less Vincent Folch's account paid into secretary's office	-	-	-	\$77 0		
Less overpaid by order of tribunal to Carrera	-	-	-	34 5½		
						111 5½
						285 4½
By amount paid Euphrosyne Hisnard, in full, her dividend	-	-	-	-	-	1,379 0
By dividend charged as paid to Miguel Eslava at Mobile	-	-	-	-	-	432 0
By dividend said to be paid at New Orleans to Terencio Le Blanc	-	-	-	-	-	209 2½
By balance carried down	-	-	-	-	-	112 5
						\$9,552 2
By balance remaining in hands of John Innerarity, as depositary	-	-	-	-	-	\$501 3
Deduct paid for copy of records at New Orleans	-	-	-	-	-	5 3
						\$496 0

PENSACOLA, October 6, 1821.

Transactions in Florida—General Jackson.

No. 2.

Estate of Don Nicolas ^{Maria} Vidal, Auditor of War.

Dr.

1806, June	7.	To amount of his note of hand to our partner, Mr. James Innerarity, for cash lent him - - - - -	\$3,000 0
		To sundries supplied him from the store, as per account presented to the Governor - - - - -	360 4
June	11.	To amount paid for thirty-three trips of a cart with his effects - - - - -	8 2
June	20.	To amount paid Governor's order for expenses of funeral - - - - -	150 5
August	15.	To amount paid Millan Carreras, per Mr. Forbes's order, as per judicial proceedings - - - - -	35 1½
1807, August	7.	To amount paid by W. Simpson, of New Orleans, for copy of record in suit against his property in New Orleans - - - - -	5 3
Dec'r	10.	To amount paid Don Francisco G. de Arroyo, for this sum ordered to be paid him by court out of the moneys belonging to the estate deposited in our hands, being amount of his mortgage on the lands at Baton Rouge - - - - -	4,000 0
1810, Nov'r.		To amount paid to the tribunal, the following: Don Juan Nicolet's dividend, \$220 4; former judicial costs, \$88 2; this sum assigned to Don Francisco Leyva in forming the accounts of the estate, \$245; final judicial costs, \$70 - - - - -	\$623 6
Nov'r	4.	To amount paid Euphrosyne Hisnard, in part claim against the estate, for \$1,594, as per receipt in chest - - - - -	1,100 0
			1,723 8
		Less this sum to be paid at the secretary's office - - - - -	\$77 0
		Less this sum to be paid by Carreras - - - - -	34 5½
			111 5½
Dec'r	11.	To amount paid Euphrosyne to complete the sum of \$1,739, being the amount of the final dividend assigned to her by tribunal, for amount of her claim against said estate - - - - -	1,612 0½
		To amount paid Don Miguel Eslava by our house at Mobile, being amount of dividend apportioned to him on said estate - - - - -	279 0
			432 0
			\$9,883 0
		To balance - - - - -	\$677 5½

Cr.

1806, June	9.	By cash received of the depositary, Mr. Forbes - - - - -	\$206 2½
July	8.	By cash received of Carreras for an asesoria - - - - -	18 0
August	29.	By sundry books purchased at the auction of his effects - - - - -	276 1
		By sundries purchased at the vendue, of which we have assumed the payment - - - - -	479 5
		By pickles and brandy fruits, \$16 2; one bidet, \$5 2; one silver sugar dish, \$16 2 - - - - -	37 6
		By two plated breadbaskets, \$15 4; two boxes wine, \$13 2½; one mahogany escrutoire and bookcase, \$122 - - - - -	150 6½
		By thirty-two volumes of books - - - - -	50 0
		By one doctor's cap purchased at vendue - - - - -	1 4
1807, March	14.	By cash received of Mr. Forbes as a deposite - - - - -	3,066 5
June	30.	By amount recovered by W. Simpson, of the sheriff in New Orleans on this account, as per account returned for explanation, (see our letter book, September 16, 1807,) - - - - -	188 6
Oct'r	26.	By two negro wenches, Maria and Juana, bought by Manuel Alvarez, of the estate - - - - -	600 0
1819, Nov'r	8.	By amount received of Andrew Monton, for lands sold at Baton Rouge - - - - -	4,129 6½
		By balance - - - - -	677 5½
			\$9,883 0

Compared with the books of the house, and found to agree.

F. H. N.

Transactions in Florida—General Jackson.

No. 3.

John Forbes and Co. in account with the estate of Nicolas Maria Vidal.

										DEBTOR.
To overcharged account due them	-	-	-	-	-	-	-	-	-	\$3,360 4
Dividend allowed	-	-	-	-	-	-	-	-	-	2,907 2
										\$453 2
Amount due by Carrera, assumed by them, not credited	-	-	-	-	-	-	-	-	-	670 0
Short credit on sale of negroes, viz:										
Amount of that sale	-	-	-	-	-	-	-	-	-	\$1,200 0
Amount paid Carrera	-	-	-	-	-	-	-	-	-	500 0
										700 0
Sum credited	-	-	-	-	-	-	-	-	-	600 0
										100 0
Sum received by E. Livingston, for sale of effects at New Orleans	-	-	-	-	-	-	-	-	-	200 0
										\$1,423 2
										CREDITOR.
By balances stated against the estate, per account rendered	-	-	-	-	-	-	-	-	-	\$677 3½
By this sum, already to credit of the estate in Armas's account	-	-	-	-	-	-	-	-	-	\$224 2½
Fees charged against this amount:										
Hauling goods	-	-	-	-	-	-	-	-	-	\$8 2
Funeral expenses	-	-	-	-	-	-	-	-	-	150 5
Paid Carrera	-	-	-	-	-	-	-	-	-	35 1½
										194 0½
										30 2
By this sum paid La Pena	-	-	-	-	-	-	-	-	-	10 2
Dividend said to have been paid to Terence Le Blanc	-	-	-	-	-	-	-	-	-	209 2½
Balance, same as report	-	-	-	-	-	-	-	-	-	496 0
										\$1,423 2

PENSACOLA, October 6, 1821.

No. 19.

Plea of John Innerarity.

INNERARITY vs. MERCEDES VIDAL.

The said defendant respectfully represents, that, by a decree of your Excellency, dated the 17th ultimo, (September,) he was allowed twenty days to furnish proofs in the said suit, which term does not expire until to-morrow, (Sunday, the 7th October;) and, as he hourly anxiously expects to receive material evidence from New Orleans, he throws himself on the justice of your Excellency, not to debar him from receiving the full measure of the time granted him; praying your Excellency to take into consideration the immense expense and trouble to which he has already been put in defending this suit. On Monday, the 8th, the defendant will, *Deo volente*, be ready to receive the *traslado* of the report of the auditors appointed by your Excellency's proclamation; and humbly craves that this plea may be admitted.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN C. CONNOR,
Clerk of Executive Court, W. F.

INNERARITY vs. MERCEDES VIDAL.

Plea.

The said defendant respectfully represents to this honorable tribunal, that, previous to the ces-

sion of these provinces, in all cases in which he was or might be concerned, he had a right of appeal; and he humbly hopes that this honorable court will not now deprive him of so sacred a right, by causing him now to appear and abide by the decision of the supreme court, *en dernier resort*, without his having been previously heard in a court of the first instance, agreeably to the Spanish laws, of which he claims the benefit under his Excellency's guardianship; humbly craving that this plea may be admitted.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN COPPINGER CONNOR,
Clerk of the Executive Court, West Florida.

No. 20.

Petition of John Innerarity, with reference to laws.

PENSACOLA, October 6, 1821.

May it please your Excellency: John Innerarity, defendant in the suit brought against him by Mercedes Vidal, respectfully represents: That he was this day, at twelve o'clock, notified to appear before your Excellency at five this afternoon, in order to hear the report of the auditors appointed by your Excellency to investigate the accounts of the estate of Don Nicolas Maria Vidal. Placing the most sacred reliance on the guaranty contained in your Excellency's proclamation when

Transactions in Florida—General Jackson.

these provinces came under your ægis, he humbly hopes that your Excellency will condescend to give him a *traslado* of the said report, agreeably to the Spanish laws, of which he annexes to this petition such authorities as are analogous, and as the short space of time allowed would permit him to translate. He trusts that all the benefits therein set forth may be extended to him; and, as he has already suffered great expense, loss, and trouble, from the estate of Vidal and this suit, he humbly hopes that your Excellency will show towards him all the indulgence which the merits of the case may authorize. He fervently trusts that this appeal to the justice and impartiality of your Excellency will be graciously received.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN COPPINGER CONNOR,

Clerk of the Executive Court, West Florida.

Translations referred to in the above petition.

Colon. tom. i. p. 323.

As soon as the auditors shall have signed their report, it is to be delivered to the secretary, (*escribano*,) who consecutively certifies its delivery by the auditors, and that it is the adjustment made by them of the assets or property of the deceased; which certificate is equivalent to the intervention of the secretary at its formation.

This certificate being subscribed, it is to be annexed to the records in continuity, and the judge consecutively orders a transfer (*traslado*) to be given to the parties interested, for the term of three days, in order that they may make such allegations as they may deem expedient, under pain that, after the expiration of the said term, the report may be approved of, as far as conformable to law; and, after such expiration of the term of three days, which is to be given to each party interested, in order that they may avail themselves of the privilege granted to them, in case they make no allegation, or express their conformity, the judge proceeds to decree.

A true copy from the original on file in my office.

JOHN C. CONNER,

Clerk of Executive Court W. F.

Curia Felipica, page 402, arts. 40, 41, 45.

ARTICLE 40. When the accounts are made up, they must be presented to the judge, who is to order a transfer (*traslado*) of them to be given to the parties for their cognizance, in order that they may see and examine them within a certain and definite time, which he must signify to them; and after they are notified thereof, if they do not comply within the said term, after the expiration thereof the judge may approve and confirm them.

41. After the accounts are examined, within the term of examination, a transfer or sight is given to the parties, in order that, with a due knowledge of every thing relative to the case, they may follow up the proceedings in the ordinary courts until their conclusion. And it is to be observed, that

the examinant or claimant of any losses on the face of the accounts, or what may be connected therewith, who is silent as to the other items, is to be held as having assented to the said items against which he has taken no exception, agreeably to the decision of Geneva and Escobas, who affirm that such is the rule.

45. After the accounts are reported on, and presented finally, the parties cannot reiterate the proceedings, or retract, unless they contain an error, and then only relative to that error, and nothing further.

JOHN C. CONNOR,

Clerk of Executive Court, W. F.

No. 21.

Exceptions to the report of the Auditors.

INNERARITY, vs. MERCEDES VIDAL.

PENSACOLA, October 6, 1821.

John Innerarity, defendant in this suit, respectfully represents: That, inasmuch as the auditors appointed by your Excellency to investigate the accounts of the estate of Don Nicolas M. Vidal, as contained in the Spanish records, and the books and documents in possession of this defendant, have disagreed among themselves in their report, he prays that your Excellency will order and proceed therein agreeably to the Spanish laws, of which he annexes a translation (marked A.) of the most orthodox quotations therefrom, as are applicable, and the rule of action in similar cases; begging and claiming always the undeniable privilege of the *traslado*, as laid down in the authorities in question, in order that he may furnish the umpire, or *texer en discordia*, (whether named by your Excellency or elected by the said auditors,) with such further proofs and illustrations as he may deem necessary. All which is strictly conformable to law, *et in verbis legis non est recedendum*.

He therefore invokes your Excellency as the guardian of the laws in your executive capacity.

JOHN INNERARITY.

A true copy from the original on file in my office.

JOHN COPPINGER CONNOR,

Clerk of the Executive Court, West Florida.

A.

Translations referred to in the above petition.

Curia Felipica, page 401, art. 36.

If there shall be any disagreement between the auditors, the judge shall name an umpire, who must give his opinion only as relates to the matter wherein they do not agree. And the parties concerned must be duly notified of the nomination, in order that they may lay before him such information as they may deem necessary. And, although both parties should concur and be satisfied with the nomination for settling the difference and contrariety between the auditors, he (*el texer en discordia*) ought to confine himself to the opinion of one or the other auditor, without making any deviation therefrom. But if he should be appointed by the judge, he may deviate from

the opinion of either, because it is his duty to make his report agreeably to law.

The costs to the auditors and umpire must be paid equally by both parties, as well by the one as by the other; and the judge is to tax what he thinks reasonable.

Febrero, page 142, art. 34, tom. 4.

If it should appear that the contadores appointed do not agree in opinion, they can, according to law, be compelled to elect an umpire. Although there is no doubt of this, it has been thought proper, and it is the practice of the courts, for the judge to name one officially, in order to avoid the disputes which might accrue between them as to the election. And although two of the three should agree, yet the *traslado*, or transfer of the proceedings to the parties concerned, must not be omitted, in order that they may either consent or set forth their wrongs; and they must be heard in the ordinary courts, because the judge cannot proceed to pronounce summarily until the formalities of the law be complied with; because the parties must be heard fully; the proofs which they may produce must be weighed, in order to ascertain whether the wrongs on the grounds which they allege have any existence in reality. The judge can then pronounce sentence, from which an appeal may be taken within five days.

A true copy from the original on file in my office.

JOHN COPPINGER CONNOR,
Clerk of the Executive Court, West Florida.

No. 22.

Plea of John Innerarity.

PENSACOLA, MONDAY, Oct. 8, 1821.

May it please your Excellency: John Innerarity, defendant in the suit instituted against him by Mercedes Vidal, begs leave most respectfully to state, that the twenty days granted to said defendant for furnishing proofs to the auditors appointed by your Excellency expire to-day, and the term of *traslado*, or transfer of the proceedings *in corpore*, for taking exceptions to the report of the said auditors, and showing the legality of the evidence furnished, or any other benefit granted by the laws, will consecutively commence so soon as your Excellency may pass the necessary decree for this purpose. This is the uniform march, or *modus operandi*, of the Spanish law, as the defendant has shown from the latest and most orthodox authorities cited in the pleas and memorial presented to your Excellency. That admirable code, the Laws of the Indies, states, also, (tom. 3, lex 1, tit. 16, under the head of "term for pronouncing sentence when every requisite is concluded,") that, when all the arguments are finally closed, and every formality complied with, the judge gives until six days to pronounce an interlocutory, and until twenty a definitive sentence. The defendant again entreats and implores that these sacred oracles may not be disregarded or overruled. These are the laws in which he has been nurtured. *Hic bonus esse*. They

lead to safety and security. They are a pavilion in the time of danger, and the defendant's only refuge in the hour of need. Your Excellency's proclamation solemnly guaranties the boon of the continuance of the Spanish laws; it is a pledge too precious to be parted with; it is the plank to which the defendant clings when he sees all the elements warring around him. It is his ark of safety, a sanctuary in the season of distress. He is now in that extremity. He has been told by your Excellency that you sit as his judge in the first instance, and *en dernier resort, ne plus ultra*, without any other resource or means of redress, inasmuch as all power is combined in your Excellency.

The defendant humbly hopes that he will be permitted to say, with all possible respect, that such a situation is critical, nay, awful indeed! It is without a solitary precedent in modern annals; at least, if they do furnish one, it is far beyond his ken, or the utmost range of his reading or experience. He is not even allowed time to call his counsel. He is, in a word, without hope, without confidence, except as to the justice of his exceptions to the report, which he will make if he is granted the privilege of the law; and, if not, then he must yield to force; in which case, he most respectfully begs that this may be considered as his reverential protest. It is under all these alarms, and under circumstances of far greater weight than any which he has hitherto mentioned, but which, through profound respect to your Excellency, remain enshrined in his own bosom, that he most humbly approaches your Excellency, fervently praying that this appeal may be graciously received.

JOHN INNERARITY.

No. 23.

HEIRS OF VIDAL *vs.* JOHN INNERARITY.

The report of the auditors in this case displays great skill and judgment, and the court are highly satisfied with it. Although, in a strictly legal point of view, vouchers may have been received, and credits allowed, which could not be warranted by the strict letter of the law; yet, from the apparently great attention devoted by them to the subjects submitted to their investigation, and after examination of the report, it is believed by the court that substantial justice may be done by carrying it into effect, especially as the counsel for the plaintiffs have withdrawn their legal exceptions.

The auditors, in the first place, unanimously find a balance of \$496 in the hands of the defendant as a deposite, and submit the question to the court whether there is sufficient evidence to allow the payments said to have been made to Eslava and Le Blanc; and if the court should be of opinion that there is not sufficient evidence, then the amount of \$641 31 to be added to the sum of \$496 absolutely found, making altogether the sum of \$1,137 31.

The court are perfectly satisfied that there is not sufficient legal evidence to allow the payments

Transactions in Florida—General Jackson.

said to have been made to Eslava and Le Blanc, and therefore adopt the provisional amount specified in the report, to wit, \$1,137 31.

The court further adopt and allow that part of the report which states that, if the court do not allow the payments said to have been made to Eslava and Le Blanc, to suffer the defendant to retain in his hands the full sum of \$454 25, it being the full amount of the balance due the house of Forbes & Co., as the amount, in that case, would be sufficient to pay all the creditors, which will leave a balance of \$683 06. As to the exceptions of the defendant to the report, the court do not think them well taken. The first is, that the auditors did not allow the \$200 paid to Mr. Livingston, as a fee for suing out an attachment against the effects of Vidal. The court are of opinion that the auditors acted rightly in not allowing this charge; for it appears that the attachment was taken out after the will was duly proved by De Armas, the executor, and, consequently, could not lie; which was virtually the decision of the court to which we have succeeded.

The other exception, that the auditors ought to have allowed the payments said to have been made to Eslava and Le Blanc, the court have already, in the first part of this opinion, disposed of.

To the amount of \$683 06, is to be added legal interest, according to the laws of Spain, to wit, five per centum per annum, from the 20th day of November, 1810, the time that the money ought to have been paid over by Forbes & Co., in compliance with a decree of the Spanish tribunal of that date, making the sum of \$1,027 19.

Therefore, it is ordered, adjudged, and decreed, that John Innerarity, the defendant, pay over to the alcalde of the city of Pensacola, in thirty days from this day, the said sum of \$1,027 19, and, in case of his failure to comply, execution may issue at the expiration of said thirty days, and the money made to be paid over into the hands of the alcalde of the city of Pensacola. And it is further ordered, adjudged, and decreed, that the said alcalde must give public notice in the Floridian, for the term of sixty days, to the creditors of the estate of Vidal, deceased, to come forward, make known their claims, and receive the amount; and if no creditors should come forward within the time limited, or, after having come forward, fail legally to substantiate their claims, then the said alcalde is required to pay over the money in his hands to the heirs of Vidal.

Given under our hands, this 8th day of October, 1821, and of the independence of the United States the forty-sixth.

JOHN C. MITCHELL,
ANDREW JACKSON,
Governor of the Floridas, &c.

The court, being informed that H. Bigelow, Esq., is indisposed, appoint Mr. Shannon to tax the costs of the former and these proceedings, from the filing of the petitions of the heirs of Vidal in this court to this date; and that the defendant is hereby decreed to pay the same; and if he fails, after due notice in writing of the costs taxed, that execution issue for the same.

Given under our hands, at Pensacola, in the Executive Chamber, this 8th day of October, 1821.

JOHN C. MITCHELL,
ANDREW JACKSON,
Governor of the Floridas, &c.

Attest: JOHN C. CONNOR,
Clerk of the Executive Court.

No. 24.

Extract from the Spanish records in the case of Vidal's estate.

On the 25th of May, 1806, Nicolas Maria Vidal, auditor of war in Pensacola, died suddenly. Colonel Folch, then Governor of the province, caused the necessary seals immediately to be affixed, inventories to be made, and all other requisite formalities to be practised as *ab intestato*, as no will was found among his papers.

On the 30th June of the same year, (1806,) Cristoval de Armas presented himself in Pensacola, and exhibited to the military tribunal a will of the deceased, made in New Orleans on the 4th of May, 1798, before Peter Pedesciang, notary public, in which he recognises and names as his natural heiresses, in the event of there being any thing to divide after the payment of his debts, four natural daughters; two of whom he had in Carthagena, one by a negro woman, and the other by a mulatto woman; and two in New Orleans, by a mulatto woman named Euphrosyne Hisnard. He names the said Cristoval his executor and administrator, with power to act without judicial intervention, and to sell his effects, realize his property, and pay his debts. This will was declared valid by the court in New Orleans, and also by the military tribunal of Pensacola, which accordingly granted letters of administration to the said Cristoval. He immediately proceeded to the appraisement and sale of the effects of the deceased, which were already inventoried. He examined, recognised, and declared valid all the notes and obligations of the deceased; as, also, the accounts against the estate presented by the different creditors; of all which the original Spanish proceedings contain the most detailed evidence.

On the 18th of September, 1806, Mr. J. Forbes petitioned, in his own name, and that of the other creditors, for the sale of sixteen thousand arpents of land situated in the district of Baton Rouge, declared in the will to be mortgaged to Francisco Gutierrez de Arroyo, for the payment of \$4,000, and, inasmuch as the said Cristoval resided in a foreign country, that he might be ordered to give security, or deposit the amount of the effects sold. After some time, Cristoval applied to the tribunal to be exonerated from the charge of executor, which was granted. The tribunal considered it useless to name another administrator, as it was then ascertained that the estate was insolvent. The creditors continued acting and petitioning, each in his own behalf, although the court had decreed a meeting of creditors to treat and determine on every thing relative to the estate.

A meeting afterwards took place, at the request

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of the representative of the minors, for the special purpose of treating of the sale of the lands at Baton Rouge. They had been previously sold for cash. But, on the urgent remonstrances of the representative of the minors, the tribunal decreed the nullity of the sale, and ordered that they should be sold in fractions, and at one year's credit. A new sale accordingly took place. During the interval carrying into effect the decision of the court, Arroyo petitioned that the mortgage which he held for \$4,000 should be paid in preference to the other creditors; which was accordingly done out of the moneys in deposit, in order to release the lands from this encumbrance; and Arroyo, in consequence, cancelled the mortgage.

In the meantime, Mr. Simpson, the agent of Mr. Forbes in New Orleans, having discovered some property there belonging to Vidal, had recovered, by a decree of the superior court of the Territory of Orleans, (a foreign country, in 1806, with respect to Pensacola,) the sum of \$188. When the lands were sold, and after the terms of credit had expired, Mr. Forbes, in the name of the creditors, solicited the tribunal in Pensacola to authorize him to claim and to receive the sums for which the lands had been sold, and he accordingly received \$4,129, the total amount thereof; and this sum was deposited with him until the formation of the accounts of the assets, and the *pro rata* share was assigned to each of the creditors by the judicial accountant appointed by the tribunal.

By the order of the tribunal, and agreeably to the judicial account, the *pro rata* shares were paid to the creditors, in obedience to the decree marked No. 1, receipts given, and the business considered at an end. Mr. Forbes, it appears, had no more agency throughout than as one of the creditors and as depositary of the funds of an insolvent estate. He neither claimed nor received any commission.

Things remained in that situation until, it seems, some time in 1817, a petition was filed by one of the minors to recover the original papers.

On the 20th of June, 1820, another petition was filed, by Mercedes Vidal, in her own name, and as agent of her sister Caroline, impugning the proceedings of the tribunal by whose order the estate of Vidal had been settled, and requiring John Innerarity, as attorney of the former house of John Forbes & Co., to furnish a statement of the accounts, &c., as may be seen by a reference to the petition itself, and the decree accompanying it. This decree, although purporting to have been notified to, and even to be signed by, the said John Innerarity, has never been notified to him, and is not signed by him, as may be ascertained by consulting the document No. 2.

This petition was followed by another, at the foot of which we find a decree which has been permitted to lie dormant from the 11th of August, 1820, until the 29th of August, 1821, without ever being notified to either party. In the mean time, auditor Suares, who had rendered those decrees, returned himself the whole of the proceedings to be packed up with the other military papers, to be

delivered to the superior military tribunal at Havana, under the custody and responsibility of the military Governor of this province, and then left this country. General Jackson, &c. *Cetera desunt. Utinam!*

XII.

Judge Fromentin to the Secretary of State.

PENSACOLA, December 2, 1821.

SIR: I have had the honor of receiving, last night, your letter of the 26th of October.

That the President is pleased to be persuaded that my motives and intentions were entirely pure, requires from me, as an individual, the most heartfelt gratitude. In any other official situation but that of a judge, my duty ought, perhaps, to be confined to the simple expression of that gratitude. But, under my present circumstances, I humbly presume that I may be permitted not to disregard the important obligations which I conceive devolve on me as judge of the United States for West Florida. The necessity of settling, as far as in my power lies, subject to the control of higher authority, the abstract principle of right or wrong, not less than a due regard for the individuals, both the old and new inhabitants of West Florida, whose rights to their liberty and property are guaranteed by the treaty, and who are deprived, some of their liberty, others of their property, by what I conceive the arbitrary and unauthorized judgment of incompetent tribunals, calls upon me most imperiously again to enter into the most minute investigation of the organization of the several courts of justice, which have assumed in West Florida a jurisdiction which I deem illegal, whether that illegality proceeds from a misinterpretation of powers conferred by the President; or from the illegality of the powers themselves, although actually given by the President; or from the unconstitutionality in some of the provisions of the act itself, in virtue of which the President granted those powers.

My very high respect for the President and for yourself does not permit me to send you, this day, a hasty, indigested sketch, upon a question of so much importance to the people of this country, and, indeed, to the United States at large, and in which it is now my misfortune to differ in opinion with men with whom it would be my pride at all times to agree. What my opinion now is, and the reasons upon which that opinion is grounded, I fairly and candidly state *sparsim* in several of my preceding communications. What, after a thorough investigation of the whole subject, my opinion will be, I will likewise state with the same frankness; and, whatever may be the result of that re-examination, I hope it will be received with an indulgence equal to the very profound respect with which it is offered.

On the 29th ultimo, the United States ship Hornet, Captain Robert Henley, with her prize the brig Centinella, carrying sixteen guns, arrived at Pensacola. Captain Henley communicated to me all the circumstances connected with the capture by him of the brig Centinella, and of the brigant-

tine La Pensée, a prize to the Centinella, having on board two hundred and forty Africans. Why I declined assuming jurisdiction in these cases, you will see by a reference to my letter to Captain Henley, written before I had the honor of receiving your letter of the 26th of October; a copy of which letter, together with a copy of the letter of Captain Henley to me, I have the honor of sending you, enclosed. My declining to assume jurisdiction in this case has created here not a little excitement. My doing too little now, as they think, has subjected me to the same acerbity of reproach as my doing too much, as they conceived, on another occasion; and, no wonder; although the cases are different, the motives for displeasure in both cases are the same.

I have the honor to be, &c.

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

[Enclosure in XII.]

Mr. Fromentin to Captain Henley.

PENSACOLA, Dec. 1, 1821.

SIR: In compliance with the desire expressed to me in your letter of this morning, I have no hesitation in giving you, in writing, the reasons by which I am induced to decline assuming jurisdiction in the case of the brig Centinella, a prize to the Hornet, and of the provisions on board of her.

The act of Congress for carrying into execution the treaty between the United States and Spain has extended to the territories of West Florida the laws of the United States relating to the revenue and its collection, and the laws relating to the *importation* of persons of color; by which word *importation*, I must understand importation within the limits of West Florida, and that part of East Florida which lies westward of the cape. This is not the crime for which the Centinella was captured by you, and brought in for adjudication. I understand from you that the captain and crew of the Centinella have been brought in by you as guilty of the crime of piracy, committed in or near Cumberland harbor, in the island of Cuba. Had the crime of piracy, connected with and inseparable from the act of importation of people of color, been committed within the limits of the jurisdiction assigned to me by my commission, the question would have been different; but it is not now necessary to examine that point. In the present case, I am satisfied that, under the provision of the act of Congress above recited, extending to the ceded territories the laws relating to the importation of persons of color, I have no jurisdiction.

How can I claim and assume jurisdiction in virtue of the Spanish laws declared to be still in force in this country, under the general judicial powers vested in me by the above-recited act, and by my commission under it? If no other consideration should induce me to hesitate, the summary mode of proceedings prescribed by the Spanish laws in cases of piracy does not agree with my idea of the obligations imposed upon a judge of the United States in a trial for a capital offence;

and, under my full conviction that (the act of Congress to the contrary notwithstanding, by which the Spanish laws are maintained in force) all the laws of Spain which are in manifest opposition with the security warranted to the accused by the Constitution of the United States cannot be included in the catalogue of the Spanish laws remaining in force in this country, (because Congress, not having the right to pass laws abridging that security, cannot of course have the right to adopt or maintain those laws, not for half an hour, much less for months, in any part of a territory become a part of the United States,) I could not reconcile it to myself, under any circumstances, to apply the principles of the Spanish laws to the case of the Centinella and her crew. Besides, if ever I had jurisdiction, I could not now exercise it. There is in Pensacola neither a marshal nor attorney of the United States. What irresponsible officer, if the law did allow it, ought, or would be willing, to take it upon himself to secure one hundred and twenty men accused of a capital crime, in a place which does not afford the means of properly securing a dozen petty offenders?

Under these circumstances, I am of opinion that the Centinella ought to be sent, without delay, to New Orleans; that an express be sent immediately, either by land or by water, to Commodore Patterson, in New Orleans, to desire him to send down to the Balize a ship or steamboat, with a sufficient guard to receive the prisoners now on board the Centinella; or to send a sufficient number of men to man the Centinella, if she can be got over the bar; so that the officers and men of the Hornet, now on board of the Centinella, may be returned, without delay, on board of the Hornet. It will be necessary that either yourself, or some of the officers of the Hornet, thoroughly and legally acquainted with all the facts, should go at the same time with the Centinella to New Orleans, in order there to give the information to the attorney for the district of Louisiana, and to make the necessary affidavits, &c.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

ELIG. FROMENTIN.

ROBERT HENLEY, Esq.,

Of the United States ship Hornet.

XIII.

Judge Fromentin to the Secretary of State.

PENSACOLA, December 9, 1821.

SIR: In compliance with the engagement in my last letter to you, dated the 2d instant, I have the honor of sending to you, enclosed, an exposition of my motives for still adhering to the construction I originally gave to the act for carrying into effect the treaty between the United States and Spain.

If, after the serious, and, I may fairly add, disinterested re-examination of this question, I have come still to a wrong conclusion, I ought not to dissemble from you my stubborn incapacity. I am unwilling to be valued more than I am worth.

I will not add, either by unfounded pretensions, or by a system of studied concealment of the reasons by which I act, to the number of swindlers of reputation.

I have the honor to be, with great respect, sir, your obedient servant,

ELIGIUS FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

Exposition, &c.

In expounding a law, I deem it all-important to ascertain, if practicable, the motives of the Legislature in enacting it. This once done, the construction of the law is stripped of all its difficulties.

The act for carrying into effect the treaty between the United States and Spain does not admit, in its construction, of the slightest doubt. The Legislature itself declares, in the second section of the act, that it has created certain offices for maintaining the people of the ceded Territories in the enjoyment of their liberty, property, and religion, in conformity with the clause in the sixth article of the treaty, which secures to those people the enjoyment of all the privileges, rights and immunities of citizens of the United States.

Now, where shall I look for those privileges, rights, and immunities? In the only place in which they are to be found—in the Constitution of the United States. But here I am to be stopped at once. The Constitution is not, I am to be told, extended in express terms to the Floridas; and it is not to be construed as being extended by implication. But does the act of Congress create, in express terms, the office of Captain General of the island of Cuba? Does it create that office even by implication? and, if it did, is it only the doctrine of oppression which is to be received, in a country under the Government of the United States, by implication? Are a Captain General of the island of Cuba, a Governor of the same island, an Intendant, a Supreme Judge, &c., with whose undefined duties and authority (that prolific nurse of despotism) no person in the United States, it seems, was acquainted, to be unblushingly smuggled into the Floridas under the auspices of the star-spangled banner? And when, in obedience to the imperious call made upon him by the same act, the valiant, the legitimate knight of American liberty, the bold asserter of American freedom, the writ of *habeas corpus*, presents himself, he is to be refused admittance: Away, away! We know him not. Crucify! crucify! Yes, sir, if in this most sacred cause, (sacred next to the cause of religion itself,) I may be allowed to use the words of the Scripture, "He came unto his own, and his own received him not."

Great, no doubt, and imposing, are the names of some by whom that doctrine is advocated. But still, both in my judicial capacity, and in my character of an American citizen, I must beg leave, most respectfully, but most unequivocally, to protest against the liberticidal doctrinal.

Sir, the Captain General and Governor of the island of Cuba had no duty to perform in the Floridas, except a sort of general honorary rather than

efficient right of superintendence, in receiving in their capacity of superior military officers, occasional reports from the Governors of the two provinces of Florida, and making their report accordingly to their Government; which general duty of superintendence, from the moment of the transfer of the Floridas, I humbly presume, necessarily devolved on the administration of the Federal Government. You, sir, in that respect, are the proper Captain General of the island of Cuba. This duty of superintendence, with the occasional obligation of appointing temporarily a Governor in either of the two provinces of Florida, in case of the death or other disability of either of the incumbents, constituted the whole of the authority of the Captain General and Governor of the island of Cuba over these provinces. Unless, then, it can be contended that the Captain General and Governor of Cuba was appointed for the purpose of enabling the Governor of the Floridas to report to himself as Captain General and Governor of the island of Cuba, or after his death to appoint another Governor in his place, it is impossible for me to conceive what we have to do here with a Captain General of the island of Cuba.

The duty of the Intendant of the island of Cuba is confined to the superintendence of the royal revenues, and to the management of the royal domains. But, in this same commission, which creates General Jackson Intendant of the island of Cuba, he is expressly prohibited from interfering with either the revenue or the dominions of the United States; thus, it seems, we have no more to do with the Intendant than with either the Captain General or Governor of the island of Cuba.

However, deriving, as General Jackson does, his high judicial authority from his title of Captain General of the island of Cuba, let us see how these pretensions agree with the Spanish law on the subject. Under the old form of government, the Captain General of Cuba was *ex officio* president of the *real audiencia*, sitting at Port Principe, in the island of Cuba, where, I believe, he never attended. But, if he had attended in his capacity as president, he only had the casting vote in case of an equal division of the judges, not less than fifty or sixty in number. But that right of presidency *ex officio* (a mere honorary right) did not vest in him, to be exercised singly, a particle of judicial authority in civil or criminal matters. Except when on that bench, he neither claimed nor exercised any judicial functions but in military matters, where he presided in the court of appeals in Havana. This, so far as respects the judicial functions of the Captain General and Governor of the island of Cuba, was the state of things under the old government of Spain. Things have been radically changed by the proclamation of the new constitution of Spain, in the Spring of 1820, both in Havana and in Pensacola. Under the new constitution, both the Captain General and Governor of the island of Cuba, and the Governors of the two provinces of East and West Florida, who, with the assistance of the auditor of war, exercised, under the old form of government, each in their respective provinces, judicial

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functions, have been deprived of all judicial authority, except in military affairs; and those duties are now to be discharged by judges expressly appointed for that purpose. Upon what foundation, then, does General Jackson rest his claim to the high dignity of a supreme judge, a chancellor, &c.? which high offices, it seems he would give us to understand, have been smuggled in the same package with the Captain General and Governor of the island of Cuba.

It is, then, very evident that General Jackson, under his commission as Captain General &c., of the island of Cuba, cannot claim and exercise in this country any judicial authority. This ought to be a sufficient answer to General Jackson himself, who, ostensibly at least, does not claim any judicial power but under his commission as Captain General of Cuba. But let us examine that question further, and see whether, under the act of Congress for carrying the treaty into effect, he cannot possibly be vested by the President, in virtue of an additional commission, which nobody has seen, with judicial powers.

The act for carrying the treaty into effect says that the "military, civil, and judicial powers shall be vested in such person and persons," &c. Let us then inquire, first, whether, under that law, he can be vested with the judicial authority; for if he cannot be, we must necessarily conclude that he is not: and if, notwithstanding under the law he could not be vested with those powers, still it should turn out that he was vested with them, the result would be the same: the appointment would be an illegal one, and, of course, null and void; and, in my judicial capacity, I should feel bound to resist it.

Now, then, was the civil power, as contradistinguished from the judicial power, vested in General Jackson? Most indubitably. You would laugh at me if I were seriously to ask whether the military power was vested in him—I mean whether he exercised it; for whether vested or not, if he exercised it, my argument holds equally good; the object of the act of Congress being to prohibit the exercise of those three powers by the same person. Whence it follows, evidently, that the judicial power could not be vested in him; or, if it was, it was vested improperly; and I deem it my duty to consider it as not vested at all.

So far, then, as respects any judicial powers exercised in the Floridas by General Jackson himself, I have no hesitation in pronouncing them—no matter in virtue of what commission he may contend he had a right to exercise those powers—a usurpation, not only not warranted, but expressly prohibited, by the act for carrying into effect the treaty between the United States and Spain.

Another question, and a most important one, is now to be examined. Is there in the law any authority, which, by the most far-fetched mode of reasoning, can be construed so as to vest in him, or to authorize the President to vest in him, legislative powers; and thus to authorize him to create courts of justice, to assign them a jurisdiction unknown in the country, and to give him the right to vest in others any judicial authority—any au-

thority differing essentially from the authority exercised by the officers of the existing government of the ceded territories?

Those rights, then, not being explicitly given, recourse must be had to this, in favor of oppression, only favorably-to-be-received doctrine of right by implication. Again we must draw upon this inexhaustible Captain General and Governor of Cuba, &c. But even that resource fails. Neither under the old Government of Spain, nor under the present Spanish constitution, has the Captain General, or any of his twin brother officers, all incorporated in the person of General Jackson, ever had the right of creating a court of justice. If, then, the right of creating a court of justice be not derived from the powers appertaining to the Captain General of Cuba, &c., whence is that right derived? Certainly not from the act of Congress, which, so far as respects judicial powers, vested in the President alone the right of appointing a judge, who is to be a different person from the civil and military officer or officers, and who is to exercise his duty in such manner as the President of the United States shall direct. Now, all this has been done. The President has done me the honor to appoint me, and in my commission he has prescribed the manner in which I am to execute my duty. The law is satisfied.

I have, I think, demonstrated above, that the law did not authorize the President to confer any legislative powers upon General Jackson. On the other hand, (which, by-the-by, would by no means alter the illegality of the trust,) those legislative powers assumed by General Jackson cannot be traced to even the illegitimate source of any legislative powers enjoyed either under the old Government of Spain, or under the present Spanish constitution, by any of the many offices, the rights and duties of which General Jackson conceives did centre in him. The creation of this court, then, is an unwarranted assumption of undelegated powers; and the persons who pretend to sit as judges under the appointment of General Jackson are guilty of usurpation, and, under the laws by which this country is at present governed, responsible to the parties in damages.

There is, sir, a particular feature in this transaction, which, if I understand your letter correctly, strikes me, and I am sure must, upon reflection, strike both the President and yourself, as a most extraordinary one. When I first was informed that the President had done me the honor of conferring on me the appointment of judge of the United States for West Florida, I was induced to give to myself an account of the probable motives of the selection made of me; and, understanding that the Spanish laws were provisionally maintained, I came to the conclusion that the President had deemed it proper and convenient to select, for administering the Spanish laws in Pensacola, a judge from among the members of the bar of a country where the same laws, so far as they are not contrary to, or repugnant with, the Constitution of the United States, are still in force, and who, of course, was supposed to be acquainted with those laws which he was to admin-

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ister. An additional motive, perhaps, I thought, in appointing me (a stranger by birth) to that high office, in a country which, I am sure, it was the intention of the President to conciliate, might have been to satisfy the people of that country, by my example, that the promises held out to naturalized citizens by our free Constitution were not vain and empty promises, but real substantial benefits and advantages, which the extreme liberality of our political institutions threw open to them as well as to the natives of the United States, from the moment that the Government of the United States, by taking possession of the Floridas, had recognised them as citizens of the free American Republic.

Judge, then, sir, what must have been my astonishment, when I read in your letter that the general commission sent me is considered and intended to apply only to the execution of the laws respecting the revenue and the importation of people of color! and that the President considered it his duty to intrust the execution of the Spanish laws, declared to be still in force in this country, to officers specially appointed for that purpose! I am lost in amazement. What officers have been specially appointed for the purpose? None have been appointed by the President. General Jackson, I have proved, had not the right to appoint any; and yet now Pensacola exhibits the strange, very strange spectacle, indeed, of a court of unlimited jurisdiction in both civil and criminal matters; of a court without the assistance of a jury in civil matters; of a court without appeal—which court consists of three or four men, professedly not understanding a word of the language in which the laws which they are sworn to administer are written; men who have never before lived under the administration of those laws, and not prepared, by a previous education, to draw the information they are deficient in from the original sources in the Latin language, from which many of those laws are derived. Good and true men, sir, who indubitably mean well. But still, sir, suppose them angels: is not their ignorance of the language in which the laws are written an insuperable bar to their appointment? Only think, sir, of the Governors of Virginia and Massachusetts appointing as judges of a court of unlimited jurisdiction, without appeal, four Spaniards entirely unacquainted with the language in which the laws of Massachusetts and Virginia are written! Or, indeed, if this appears to you rather too shocking, suppose the Governor of Pennsylvania should appoint to administer the laws in Philadelphia four Germans from the county of Lancaster, who do not understand a word of the English language! You smile at the comparison; yet let the difference be pointed out. Is this justice, sir? Is it not, on the contrary, the prostration of all justice? There must be some misunderstanding. I cannot believe, sir, that the President or yourself can be acquainted with the facts which I have detailed. It cannot be, sir, that the administration of the Government of the United States can sanction such proceedings. The American people will shudder when they hear of it; and posterity, dis-

posed always to believe almost every thing, will refuse to believe that. The more I reflect on the subject, the more I am bewildered; and yet, if General Jackson had a commission from the President authorizing him to act as he has done, how is it, since he thought proper to exhibit another commission, that that commission was not exhibited by him on the occasion of the celebrated question of jurisdiction in the case of the heirs of Vidal *vs.* Innerarity? Why, on that occasion, exhibit a commission under which he certainly can claim no part of the extraordinary judicial powers which he has exercised here? Why the many elaborate efforts to establish, by unavailing reasonings and by false facts, a jurisdiction, which even an illegal and unconstitutional commission, if he had exhibited it, would have established so as to answer, at all events, all his then purposes? Sir, has the generous zeal of the President betrayed him, in order to save a man who once * * *, but who now, I fear, cannot be saved except by the sacrifice of the country, in now assuming upon himself a heavier responsibility than he has really incurred? I hope the suggestion may be forgiven. It would be the fanaticism of charity, and Mr. Monroe will pardon me for believing that he is capable of it.

The question, however, in any state of things, still recurs: Are the judicial powers exercised by General Jackson in West Florida, either by himself, or by persons appointed by him, (no matter from what source they spring,) legal powers? To that question, after the most solemn and dispassionate examination of the case, my conscience answers—no. As long, then, as I shall be permitted to retain the commission with which I have been honored by the President, I must continue to consider myself as the only judge in Pensacola. Indeed, every appointment to a judicial office in West Florida, anterior to mine, derived from a commission for particular purposes from the President, I must consider as entirely superseded by my commission, which is expressed in the most general terms, and which commission is predicated upon an act of Congress, recognising in the Floridas the existence of a particular code of laws, which it would be strange, indeed, if a general and unlimited commission under that very act should not reach.

I hope, sir, my zealous examination of, and the earnest and free expression of my sentiments on, this question, will not be attributed by you to motives taking their impure source in committed or disappointed self-love. No, sir; self, I assure you, has never been further from me than, since I am in Pensacola, in almost every stage of this very extraordinary, and to me very disagreeable business; self would have dictated a line of conduct very different from the line I pursued. I consider this question only with reference to the rights secured to the people of this country by the treaty, and to the obligations assumed by the Government towards those people by the same treaty.

When I reflect that not less than one hundred suits, both civil and criminal, have been already tried—tried? no; I ought to have said decided—

by the court appointed here by General Jackson, I am struck with terror at the rapidity of the torrent of endless litigation which is likely to overwhelm in a common ruin the honest citizens of this country, who have not been the victims of the other tyrannical measures pursued here by General Jackson. And can this be the accomplishment of the expectations held out by a law expressly passed for maintaining the inhabitants of the ceded territories in the free enjoyment of their liberty, property, and religion?

Sir, conscious, as from what precedes you must be sensible I am, that the President has no right to constitute a North court, such as existed in Great Britain under Charles I.; or a court of exchequer, which I do not conceive created by a law which I understand as giving (as is done every day) jurisdiction in matters of revenue to a court created for the general purposes of a court of justice in the United States; or a prevotal court, such as was occasionally established in France; and that the words of the section of the act, "and shall be exercised in such manner as the President of the United States shall direct," cannot relate but to the manner of exercising the given powers, not to the right of vesting those powers; that the words of the law are intended to prevent the continuation of possible abuses supposed to exist, not to create new and unheard-of abuses—that, for instance, with respect to the judiciary, if a practice had prevailed, as many persons supposed it still did, of taking the evidence of witnesses in private, the President should, under that clause of the law, direct it to be taken in open court; conscious, further, that if, *per impossibile*, the President could originally claim the right, under the words of the act I have quoted, of dividing the judicial duties to be performed, some by some under the Spanish laws, others by others under the two acts of Congress mentioned in the law, yet, after giving a general commission which embraces the Constitution and the laws of the United States, (of which laws the act for carrying into effect the treaty between the United States and Spain, under which I am appointed, is one,) the President cannot have the right afterwards of abridging that jurisdiction—I am bound, and, of course, must here declare, with unfeigned and profound respect, my determination to maintain the right vested in me of administering here the laws of Spain, which, being neither in opposition to nor repugnant with the Constitution of the United States, are still in force in the Floridas; and, under the powers thus vested in me, since the right is refused to introduce the writ of habeas corpus in the Floridas under the protection of the American, I will introduce it under the protection of the Spanish constitution.

Flectere si nequeo superos, Acheronta movebo. I regret it, sir—bitterly regret it; the Genius of American history will drop a tear in penning the page which is to record this singular political phenomenon. But if the people of the Floridas cannot be protected in their liberty and property, as of right they ought to be, by the Constitution of our country—by the constitution of their

country—they shall be protected, as far at least as my weak powers may avail them, by the constitution of Spain—by the constitution of their former country. Give me leave, sir, to refer you to the 11th section of the 172d article of the Spanish constitution; and further, among many others containing an analogous doctrine, to the articles 247, 251, 254, 287, 295, 299, 306, 312, and 371 of the same instrument.

By these several articles, sir, as fundamental laws still in force here, *mutatis mutandis*, test the conduct of General Jackson here; and, instead of making him simply a Captain General of the island of Cuba, &c., suppose him King of all the Spains, if you will; and even then he must be crushed under the ponderous weight of the loudly accusing authorities against his unprecedented despotism; and by the same authorities I must be supported in my strenuous exertions to screen the victims of his fury. And whether I used, in order to enforce my authority, the forms of what we call in the United States a writ of habeas corpus, or whether I issued any other order which a Spanish judge might have issued under similar circumstances, for the purpose of obtaining the same end, I feel, and I sincerely hope, sir, the President and yourself will, upon reconsideration, feel satisfied, likewise, that I have done every thing in my power to enforce obedience to the law, and that, in doing so, I have not gone beyond, but have kept myself strictly within, the limits of the legitimate authority intrusted to me by the President.

Sir, this communication being likely to close our correspondence on the subject of the difficulty between General Jackson and myself, (believing, as I do, that Congress will have legislated for the Floridas probably before this reaches you,) it may not be improper, perhaps, for me to add here a few observations in support and in vindication of the severe language I have been compelled to use in speaking of the conduct here of General Jackson. Sir, I am no miniature, no water-color painter. What I strongly feel, I must express strongly; and, accordingly, I reflect with pride on the strong expressions of gratitude which, in common with every American citizen, I bestowed on the achievements of General Jackson. Not one of the members with whom I had the honor to serve in the Senate of the United States will accuse me of having been deficient, so far as my feeble, very feeble, exertions and my vote could go, in the manifestation, in every possible shape and form, of the national gratitude to the man in particular under whose auspices the British had been obliged disgracefully to withdraw from the shores of invaded Louisiana.

When, on a later occasion, General Jackson made himself amenable to the severity of the laws of his country, for the perpetration of crimes—the forerunners of the crimes which he has since committed here—the measure of my gratitude to the conqueror at New Orleans was not yet exhausted. I rejoiced in my heart that the tribunal before which he was arraigned, and of which I was a member, could not, in my opinion, constitutionally take cognizance of the crimes with which he was

charged; and thus, reconciling the imperious obligations of my conscience with the next to that imperious duty of my gratitude to the man who had rendered an essential service to my country, upon the ground of want of jurisdiction, I was found in the foremost ranks, and, if not among the ablest, I am sure among the most zealous, defenders of General Jackson.

Ever since, both in my public and private character, General Jackson's name was never pronounced by me but with the high respect his past services called for. I was proud to be associated with him in the pleasing and honorable task of initiating our new brethren of the Floridas into the enjoyment of the privileges, rights, and immunities of the citizens of the United States.

Even, sir, since my arrival in Pensacola, although a more intimate acquaintance with the man, whom I knew before principally from the rumors of fame, had, in a great measure, sunk the hero; notwithstanding I had heard his frequent imprecations, and his repeated determination to rule by the bayonet—by the bayonet!—a people the most devoted, the most honest, the most inoffensive—of not one of whom, during his stay here, I venture to assert, he had the slightest reason to complain, and in point of numbers, too, the most insignificant; still, such was my blind infatuation, that, contrary to the dictates of my sounder judgment, my gratitude took the lead, and succeeded in persuading me that such language, improper as it was, was nothing more than the evaporating ebullitions of an overboiling temper, which never were to be followed by any dangerous results.

What, then, must have been the conduct of the man who, in spite of all those favorable prejudices, has wrested from me expressions of execration and abhorrence, which upon now reviewing his acts, appear to me too feeble and too nerveless for the nefarious occasion! I hate tyrants in every shape; but I know of no words to express my detestation of an American tyrant. Sir, by my masters in the art of portrait painting, I have been taught that, in the delineation of characters, the writer ought to take into consideration not the acts only, but the motives, the occasion, the aggravating or extenuating circumstances, the provocation, the policy, the real or apparent necessity—in fact, all and each of the reasons by which men may be induced to act. All those circumstances, then, connected with the acts of General Jackson here, I took into consideration—his birth, his education, his pursuits, his civil and military employments, his long life under a Republican Government, his glory—yes, sir, his glory; a noble, once, now the worst, very worst, feature in his character—his glory, which concatenated him with the glory of his country by an adamant chain; well, even that adamant chain of glory he has in sunder rent.

What consideration of comparatively frigid duty can check in his mad career the man who could not be checked by the glowing enthusiasm of his own noble deeds? I say nothing here of his former crimes; they would load the canvass, without adding to the effect of the picture. Those crimes, the disgustingly rich subject of another picture,

themselves are without physiognomy alongside of the sacrilegious profanation of his own fame. And for what have these invaluable sacrifices been made? That he might play the tyrant over his fellow-citizens—his fellow-citizens whose happiness had been intrusted to him by the President of the United States, whose happiness he had sworn to promote.

One word more, and I have done. The question now to be decided is not the insignificant and unimportant question of the difficulty between General Jackson and myself. It is a question of country or no country; constitution or no constitution; liberty or slavery. The despotism which attacks the liberty of one of the meanest of the inhabitants of this country, makes an attack upon the liberty of all. Every tyrant began his career by rendering eminent splendid services to his country. Cæsar had conquered the Gauls, subdued a part of Germany, and even pointed out Great Britain to the ambitious cupidity of his countrymen, before he turned his parricidal arm against Rome itself. I speak not this now, with reference only to the present occasion. But, sir, tyrants beget tyrants. Beware!

N. B. It appears I was in error in stating the number of suits decided. From the reference to the docket of the court, it seems the whole number of suits filed is one hundred and twenty, of which between sixty and seventy only have been decided. Appeals, it seems, are still carried on before the acting Governor.

XIV.

Mr. Fromentin to the Secretary of State.

PENSACOLA, December 21, 1821.

SIR: I have the honor of sending you, enclosed, the opinion of Mr. Acre, the very able and upright counsel of Mr. Innerarity.

In my last communication to you, I made a mistake in stating the number of the judges who constitute the *real audiencia* at Fort Principe. Although I have no positive means here of ascertaining the real truth, yet, from information obtained since I wrote, I believe that I greatly exaggerated their number.

I omitted, likewise, to state that the Governor of Cuba, assisted by the auditor of war, enjoyed, under the old Government of Spain, the same judicial powers, to be exercised within the country under his immediate jurisdiction, which were enjoyed by the Governors of both East and West Florida.

This mistake of mine on one side, and omission on the other, do not, however, affect in any way my reasonings, nor the conclusions I have come to with respect to the jurisdiction of the Captain General and Governor of the island of Cuba, so far as the jurisdiction claimed by General Jackson here is concerned.

I have the honor to be, sir, with great respect, your most obedient servant,

ELIG. FROMENTIN.

Hon. J. Q. ADAMS, *Sec'y of State.*

[Enclosure in XIV.]

In the Supreme Judicial Court of West Florida.

OPINION.

HEIRS OF VIDAL vs. JOHN INNERARITY.

At the request of the defendant, I have examined the report of the auditors, to whose investigation the merits of the above-entitled cause were submitted, and, having given the best consideration I am capable of, I now proceed to offer my views of the law on the points whereon the auditors have differed. The question thus made for the consideration of the court is, whether there is sufficient proof of the payment, by the house of Forbes, of the sums adjudged by the tribunal to Eslava and Le Blanc, as the dividends of the claims against the estate of Vidal. This question must be answered by the rules of evidence established by the laws of Spain, and recognised by her tribunals of justice. By that law, mercantile books, regularly kept, prove their contents, and are evidence of the claims of the merchant against his debtors to any amount, provided they appear to have been fairly kept, and contain in themselves nothing so suspicious as to counteract the *prima facie* evidence which the civil law, or law of Spain, declares them to be; and the courts of justice will always enter up judgment for the amount thus by them appearing to be due. In Louisiana, this rule of the civil law is modified and narrowed by statute, which requires that the merchant books should contain the *parafe* of the merchant on the margin of each page, made every Saturday night before a notary public, in order to make them evidence. And even by the common law, which is more strict in its rules than any other system of jurisprudence, the entries in the books of merchants can be proved by the clerk who kept them; and, if he be dead, or beyond the jurisdiction of the court, proof of his handwriting is always admitted, and is conclusive as to the correctness of the entries, and to the truth of their contents. Testing the question made by the report of the auditors by the rules of evidence, either of the civil or the common law, how does it stand? It appears by the books of the house of Forbes, which, according to the civil or Spanish law, if regularly and fairly kept, prove the truth of their contents, that there are long accounts current, and to considerable amount, with Le Blanc and Eslava, and that these two gentlemen are credited to the amount of the dividends assigned them by the tribunal of 1810: hence, the claims of the house of Forbes against them are less by the amount of those sums, put thus to their credit, and, consequently, they have received and have had the full benefit of those sums, inasmuch as they have gone to the lessening of the amount due by them to the house of Forbes. And if, at common law, they were sued by the house of Forbes for the amount of their accounts, proof of the handwriting of the clerk (if dead) who made the entries would be received, and judgment entered against them for the amount appearing to be due after deducting the credits; and if those credits would be allowed them in a suit brought on their account, it follows, as a nat-

ural consequence, that they have received the full benefit of those credits from the moment they were given; or, in other words, that the amounts with which they have been credited were paid to them the moment they were put as an offset against their debts. Therefore, in every point of view in which I have been able to consider this case, whether I test it by the rules of evidence acknowledged by the Spanish law, or by those recognised by the English law, my mind is led to the inevitable conclusion that there is sufficient and ample proof that the sums of money assigned to Eslava and Le Blanc, as the dividends of their claims against the estate of Vidal, have been paid to them, and that, therefore, they can have no claim against that estate for those dividends they have thus received; and, consequently, neither that estate, nor any one interested therein, can have any claim against the house of Forbes for these moneys. Such is certainly the law, and such, it is humbly conceived, ought to be the judgment of the court made upon this point by the auditors.

It will be remarked that all I have hitherto said is predicated on the supposition that the books containing the entries in question have been regularly kept. To ascertain this fact, (and it is an important one, as on it depends, I consider, the means of arriving at truth, and coming to a correct decision,) perhaps it might be proper to submit them to the inspection of intelligent merchants, and to receive their report as proof of the fact.

On the subject of the \$200 paid to E. Livingston, of New Orleans, for professional services, my mind, on the first impression, was induced to concur with the report of the auditors, and to believe that it ought not to be allowed to the house of Forbes in the settlement of their accounts with the estate of Vidal, inasmuch as every client is responsible to his counsel for his conventional fees; but, on reflection and mature consideration of the matter, I am pretty well satisfied that, in this particular, I was mistaken, and am now inclined to think that this sum too must, according to law, be allowed. I am brought to this conclusion from the following facts and reasons arising thereon:

The suit instituted by Mr. Forbes was brought by attachment against the goods of Vidal, in New Orleans, in the State of Louisiana, where the civil law has been adopted; whereby the defendant, when judgment goes against him, is considered *in delicto*, i. e. in fault, and, therefore, is decreed to pay all the costs and charges which by that fault have been incurred in compelling him to do right; and the practice of the courts of Louisiana has uniformly been, I believe, in all suits against absentees, to appoint counsel to defend them, and, out of the proceeds of the property attached, to decree a sufficient sum for the payment of all the expenses incurred in the suit on both sides.

By the record in this case it appears that the sum paid to Mr. Livingston was paid to him by the sheriff, under an order by the court, out of the funds produced by the sale of the goods attached; and this order was, no doubt, entered in conformity to the practice of the court on similar occasions. If such is the law, and such the practice of

the courts of Louisiana, it is evident that the payment of these \$200 was an act of the court, over which Mr. Forbes had no control, and, therefore, he ought not now to be called on to pay, from his own funds, a sum of money which a court, having jurisdiction of the matter, had ordered to be paid by another party. The record of that cause imports absolute verity as to the facts contained in it, and the judgment of the court rendered on those facts cannot be inquired into by the tribunals of another jurisdiction. That judgment is, that the estate of Vidal should pay the charges, viz: \$200, incurred in compelling it to pay its debts; and how can a court now, of a different jurisdiction, possessing no powers of review, reverse the judgment of that tribunal, and make a different order as to the subject-matter it had under consideration?

No judgment whatever can be legally given in this case in favor of the devisees of Vidal, (for they are not heirs, as erroneously called in their petition and proceedings in this case,) because, from the distribution of the assets of his estate, in 1810, as well as from the report of the auditors recently made, it is evident that the estate is insolvent, and, therefore, that nothing is left for the devisees, who can never take any thing in prejudice to the creditors; it being a maxim of law, as well as a very commonplace one of morals, that "a man must be just before he is generous;" in other words, he must pay his debts before he gives legacies; and if judgment cannot be given in favor of the devisees or petitioners, it is conceived that the cause cannot be taken up for the benefit of the creditors, because they have not asked it, and are fully satisfied, as is manifest from their putting in no claim. And it would be a strange anomaly, and a most singular phenomenon in jurisprudence, to see a court voluntarily and gratuitously pursuing the fancied interests and enforcing the imaginary claims of persons who have not said they have any, and who have certainly never asked its interference.

Having considered the report of the auditors, I proceed to offer some remarks on that part of the judgment of the court which decrees interest on the sum of \$683 06, from the 20th of November, 1810, on the supposition that, at that time, a final settlement of the estate of Vidal took place, and the house of Forbes was ordered to pay over the deposit in their hands, which the court supposes to be the sum above mentioned.

In decreeing interest, under the circumstances of the case, I am clearly of opinion that the court acted unadvisedly, and that a review of the facts, as they appear on record, would lead to a very different judgment.

The following statement of facts, verified by the record, will place the question of interest in a clear light:

In the year 1806, Don Nicolas M. Vidal, then late auditor of war of West Florida, leaving considerable of real and personal estate and many debts behind him, died in Pensacola.

By his will, he devised his property, after the payment of his debts, to two mulatto children,

who are the present petitioners, styling themselves heirs.

His executor, Christoval de Armas, of New Orleans, sold his personal property, and, after the payment of mortgages on his real estate, there remained \$2,645 25; which sum he having failed to give security for, as by law was required of executors residing out of the jurisdiction of the province, it was ordered by the tribunal, exercising the powers of a court of probates, to be deposited with the house of Forbes for safekeeping, for the benefit of the creditors, and until they should verify their claims against the estate.

A meeting of the creditors having been had, and the affairs of the estate deliberated on by them, the tribunal, in 1810, after having assigned to each one his dividend, ordered Mr. John Innerarity, the attorney of the house of Forbes, to pay, within two months, to the creditors, the sums that had, by the judicial contador, been assigned to them as their dividends, viz:

To Euphrosyne Hisnard	-	-	\$1,379 00
To Terence Le Blanc	-	-	209 31½
To the officers of the court, (collectively)	-	-	512 06½
To Miguel Eslava	-	-	432 00
			<u>\$2,532 37½</u>

These sums, paid to the creditors according to the order of the court, deducted from the sum of \$2,645 25 deposited, leave a balance in the hands of the house of Forbes of \$112 87½; to which add the sum of \$183 37½, received from New Orleans belonging to the estate, and the sum of \$296 25 will remain of the deposit, against which the house of Forbes have a claim (which was allowed by the tribunal, in the distribution to the creditors, and which was a balance due on a note of hand given by Vidal to that house for borrowed money) amounting to \$453 25; leaving a balance due by the estate to the house of Forbes of \$157. Hence, there is neither principal nor interest belonging to the estate of Vidal in the hands of John Innerarity, the attorney of Forbes. And even if it were admitted that the sum of \$645 25 was really in the hands of the defendant, as supposed by the court, it is evident that interest cannot be exacted on it, inasmuch as it is admitted to have been a deposit of the simple kind, which, being for the benefit of the depositor, and as a favor to him, does not draw interest until after a demand and refusal; and this sum belonging to creditors, who, if they have not received it, certainly have not demanded it, the court cannot, at the instance of third persons, having themselves no claim, decree interest to persons really entitled, who have not asked it.

It may be said that, if any injury has been done to the defendant, he is without remedy, and must submit to his fate, inasmuch as judgment has been entered, and the court cannot recall it. I answer that, though there is no court in this province having appellate powers, yet, as this is a tribunal acting under the forms of the civil law, and governed by the rules of practice, it is competent to the same court to review its own decisions.

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The same power which did the injury can repair the wrong. *Dissolvitur eodem ligamine quo ligatur.*

At common law, the court has control over its judgments during the term they are entered, and, if satisfied that complete justice has not been done in any cause tried during the session, the practice is to grant a new trial, and, on application to the discretion of the court, under such circumstances, has never been known to fail. And even if, after the end of the term, it is discovered that more complete justice would be attained by a new trial, though the court of common law cannot grant it, the same judge, exercising chancery powers, will, in his character of chancellor, award an injunction, and, on proof of the allegations of the bill, (reasons for a new trial,) will grant relief.

A court sitting under the authority of the civil law has no terms; it is always open; hence, it has the same control over its judgments, at all times before the final execution, that a court of common law has during its terms. It also combines in its very constitution chancery and common law powers; so that a court thus constituted is competent to do whatever both courts, in the fullest exercise of their jurisdiction, could do. I therefore infer, from this view of the powers of the court, governed, as this is, by the rules of the civil or Spanish law, that there will be no hesitation in granting a rehearing. The petitioners cannot complain, because, if they are entitled to any thing, their right will not be diminished by justice being done; and, if they are entitled to nothing, they cannot, in common honesty, expect any thing. But, above all, when justice is the question, no technical questions, nor reasoning founded in fiction, should be suffered to impede her course; no considerations of delicacy to predecessors should restrain the hand that dispenses right. *Fiat justitia ruat cælum.*

SAMUEL ACRE.

MOBILE, December 10, 1821.

[Documents communicated with the President's Message of January 28, 1822.]

Papers received from Colonel Butler.

- No. 1. Adjutant General Butler to Governor Coppinger, May 26, 1821.
2. Governor Coppinger to Colonel Butler, May 26, 1821.
3. Governor Coppinger to Colonel Butler, June 8, 1821.
4. Butler to Coppinger, June 8, 1821.
5. Coppinger to Butler, June 9, 1821.
6. Butler to Coppinger, June 10, 1821.
7. Coppinger to Butler, June 11, 1821.
8. Return of officers, &c.
9. Butler to Coppinger, June 13, 1821.
10. Coppinger to Butler, June 14, 1821.
11. Butler to Coppinger, June 15, 1821.
12. Coppinger to Butler, June 16, 1821.
13. Butler to Coppinger, June 18, 1821.
14. Coppinger to Butler, June 19, 1821.
15. Butler to Coppinger, June 20, 1821.
16. Coppinger to Butler, June 21, 1821.
17. Butler to Major T. Cross, June 22, 1821.
18. Butler to Lieutenant Baird, June 22, 1821.

19. Butler to Coppinger, June 22, 1821.

(A.) Documents in the foregoing communication.

20. Coppinger to Butler, June 23, 1821.
21. Butler to Coppinger, June 26, 1821.
22. Coppinger to Butler, June 28, 1821.
23. Butler to Coppinger, June 29, 1821.
24. Coppinger to Butler, June 30, 1821.
25. Butler to Coppinger, July 2, 1821.
26. Coppinger to Butler, July 3, 1821.
27. Butler to Coppinger, July 3, 1821.
28. Coppinger to Butler, July 4, 1821.
29. Butler to Coppinger, July 5, 1821.
30. Coppinger to Butler, July 6, 1821.
31. Butler to Coppinger, July 5, 1821.
32. Coppinger to Butler, July 8, 1821.
33. Butler to Coppinger, July 9, 1821.
34. Memorandum signed by Butler and Coppinger, July 6, 1821.
35. Certificate of Robert Butler, July 13, 1821.
36. Act of cession of East Florida, July 10, 1821.

No. 1.

Adjutant General Robert Butler to Jose Coppinger, Governor of St. Augustine.

ST. AUGUSTINE, May 26, 1821.

SIR: I had the honor to inform you on the 24th instant of my arrival at this place, and of the powers with which I have been vested by the Government of the United States. It affords me much satisfaction to find, from the short conversation I had on yesterday with your Excellency, that our sentiments so well accord, and that our exertions will be mutual in affording every possible facility to a speedy and satisfactory termination of the official intercourse anticipated between us. In strict accordance with my instructions, it becomes necessary to ask officially of your Excellency whether you have been furnished with any orders from the Governor General of Cuba authorizing the delivery of the province under your command to the commissioner appointed for its reception on the part of my Government. I beg leave to add, in conclusion, that I am prepared to commence the negotiation, and to comply with the stipulations of the treaty touching this subject in its full extent.

I have the honor, &c.

ROBERT BUTLER,

Adjutant General and Commissioner.

To His Ex^{cy} JOSE COPPINGER,
Governor, &c., St. Augustine.

No. 2.

The Governor of St. Augustine to Adjutant General Butler.

ST. AUGUSTINE, FLORIDA, May 26, 1821.

In answer to the note of this date which you have been pleased to send me, I have to state that I am sincerely desirous that the business for which you have been appointed by your Government should be arranged in the most uniform and satisfactory manner to our Governments and to ourselves. I ratify, as I mentioned in our visit of yesterday, my being without the orders of my

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Government necessary to our treating on the delivery of this province, under my care, according to the treaty concluded by the United States and Spain; but which, while it impedes the opening a communication on the subject, can nowise embarrass or straiten our individual relations. I will take the earliest opportunity of informing his Excellency the Captain General of Cuba and the Floridas, on whom I immediately depend, of your arrival and mission, in order to the most speedy attention to your charge assuring you, in the mean time, of the best wishes and attention within my power. God preserve you many years.

JOSE COPPINGER.

By order of His Excellency:

GEORGE I. F. CLARKE.

ROBERT BUTLER, *Adj. Gen., &c.*

No. 3.

ST. AUGUSTINE, June 8, 1821.

SIR: I received yesterday despatches from his Excellency the Captain General of the island of Cuba and the two Floridas, with competent orders to proceed to the delivery of this province to the commissioner authorized by the Government of the United States to receive it; and, as you have been pleased to inform me that you have come vested with that commission, I now give you notice of it, in order that the intended end may be accomplished. Your obedient servant,

JOSE COPPINGER.

ROBERT BUTLER, *Adj. Gen., &c.*

No. 4.

Colonel Butler to the Governor of St. Augustine.

ST. AUGUSTINE, June 8, 1821.

SIR: I had the satisfaction to receive your note of this morning, in which you are pleased to inform me that you have received "competent orders" to arrange the delivery of this province to the commissioner authorized by the Government of the United States to receive it. As we now are the mutually declared authorities touching this business, and as, I presume, you are, as I am, satisfied in this official recognition, I shall at once conform to my instructions, by opening the subject generally, that no unnecessary delay may arise:

To enable me to comply with the provisions of the seventh article of the treaty lately ratified by our respective Governments, it becomes necessary to call on your Excellency for a statement of the number of officers, both civil and military, and troops, for which I am to provide transportation to the Havana, and also to arrange the provisions for their subsistence; which, although not expressly mentioned in the treaty, yet the liberal construction which my Government is disposed to give to that instrument has induced the arrangement. It is desirable, also, to have a distinction drawn between those officers who have families and those who have not, as I feel disposed to afford as much comfort as possible, without departing from my instructions, in the arrangement of the transports. As this information is import-

ant to the immediate consummation of my preparatory duties, I hope you will give me early advice, to enable me to place myself subject to your wishes in the final arrangement.

To evince my respect for you personally, as well as officially, and feeling, as I do, every friendly disposition towards cultivating the happy understanding which exists between our respective Governments, I am induced to ask your Excellency to embrace, in the form of a project, 1st. Your wishes with regard to the manner and probable time of delivery of the province under your command; 2d. The subject islands dependent on said province; 3d. Public lots and squares; 4th. Public edifices; 5th. Fortifications, with their appendant defences; 6th. Barracks and other buildings, which are not private property; and, 7th. The archives and documents which relate directly to the property and sovereignty of said province, accompanied with a schedule of the property contained under the 2d, 3d, 4th, 5th, and 6th heads. The arrangements which may relate to the embarkation of our troops I shall leave out of view for the present, as I desire on this head to consult your wishes, in a conference, previous to entering of record and preliminaries touching that point: believing as I do that we can more satisfactorily meet each other's views by a conference than by written communications. As the project which I have requested is, when complete, to be in the character of a general arrangement, destined to be passed for the information of our respective Governments, as an acquittal of the duties required of us, I feel the more solicitous that you should submit it, as the most particular evidence of the friendly disposition of the Government which I have the honor to represent.

I renew to your Excellency the assurances of my distinguished consideration.

ROBERT BUTLER.

Governor COPPINGER.

No. 5.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 9, 1821.

SIR: Before satisfying each of the particulars contained in the note which, under date of yesterday, you did me the honor of sending me, I have thought it convenient to inform you, that, in the expedient that must be formed, to proceed to the delivery of the province under my charge, there must be inserted authentic copies of the treaty concluded between our respective Governments; of the royal schedule of the 24th of October last, that I have received for the delivery, and the rest of the orders appertaining to it; and likewise including that in which I am named and empowered by his Excellency the Captain General of the island of Cuba and the two Floridas, in his name to make said delivery to the commissioner of the United States of America duly authorized to receive it; and although, individually, I am perfectly satisfied that you are the commissioner, notwithstanding, to proceed with all the circumspection requisite to so important a subject, I must, therefore, beg you to oblige me by sending the

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document in which you are authorized for said commission, a copy of which will be united to said documents, serving as preliminaries on the delivery and receipt, that will be done with all the solemnity possible. In the mean time, I shall communicate to you a knowledge of the other affairs which you demand, and always with the highest consideration and esteem for your person.

I have the honor to be, &c.

JOSE COPPINGER.

ROBERT BUTLER, Esq.

No. 6.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 10, 1821.

SIR: I have received your note of yesterday, in which you assign the reasons for not "satisfying each of the particulars" contained in my note of the 8th instant; and although it is believed, on my part, that a more summary mode would meet the views of my Government than what you deem necessary, growing out of your instructions, I readily acquiesce in the proposed arrangement, and have, therefore, herewith enclosed, for your satisfaction, my appointment as commissioner to arrange with your Excellency the duties intrusted to our charge. In the mean time, I hope you will favor me with the information desired in the first part of my note of the 8th instant, relating to the arrangement of transports, at as early a period as may be convenient and proper.

With sentiments of great respect and esteem, I have the honor to be your obedient servant,

ROBERT BUTLER.

His Exc'y J. COPPINGER.

No. 7.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 11, 1821.

SIR: I have received your note of the 10th instant, in which you enclose me your appointment as commissioner to receive, in the name of the United States of America, the province under my charge; and, although you have pointed out to me that it was believed, on your part, that a more summary mode than that I have proposed was the persuasion in which your Government was would be observed, I must remark, that, attending to what the treaty, royal schedule of delivery, orders of my Captain General, and the importance of the same affairs merit, I have thought the proposal the most analogical, and worthy to fill the objects, although I am disposed to rectify it in any of the parts that do not agree, or are unnecessary in the insinuated requisites. Coinciding with the ideas that you have manifested to me, it is my desire that our respective commissions be complied with as soon as possible; but, having received, at the same time with the orders for the delivery of this province, those that ought to have been communicated ere this, to prepare and facilitate said delivery, is therefore the cause that it cannot be executed in all its parts with that despatch we desire. On that account, I request your attention in re-

spect to the advices and intelligence my Government has given me relative to the treaty, to make known to all the inhabitants of the country, as well that part stipulated in respect to them, as also the particular steps they have determined shall be taken for those who wish to emigrate to various parts of the Spanish dominions. The artillery, military stores, and ammunition, that are to be transported, is another of the important points, the operation of which demands some order and time in this particular, as well as others, which, although they are not of as much consequence, it is requisite to execute them. I therefore consider it necessary we should hold a private conference, a medium by which we can conciliate our respective opinions, and accelerate its brevity; for which occasion I reserve manifesting you my observations, that, united with those you may uniformly make, they can be formalized in a species of convention, that will point out, with exactitude, the method of the operation, and will deliver us from some difficulties that generally occur in such cases. In answer to the first particular of your note of the 8th instant, I enclose you a circumstantial account of the military force of this garrison, including the families belonging thereto; likewise another, of those employed in this place under the immediate dependency of the national finance, both one and the other, with their respective remarks, for the ends that may be thought necessary.

Before leaving this subject, rendering your Government the honor and justice it merits, I pay them the tribute of my sincere thanks for the liberal sense given to the seventh article of the treaty; generosity supplying the necessary provisions during the voyage of the officers, troops, and those persons employed in the finance; and to you, sir, for the frankness you have manifested, and which will, no doubt, shorten our future communications. As I have heretofore expressed, I think it proper there should be a personal interview, for arranging the embarkation of said artillery, military stores, and ammunition, and other particulars which I wish to communicate. We will then determine positively the day on which the delivery of the province under my charge can be effected, as all other calculations would be useless without such an antecedent agreement. In respect to the lots, squares, public edifices, fortifications, barracks, and other public property, with the documents and archives that appertain directly to the right and sovereignty of this province, you can immediately designate the person or persons that are to receive the inventories, plans, &c., to prepare and devise the needful, for the purpose of advancing this operation, to the commandant of engineers of this city, for the delivery of each of the respective departments, and also the documents appertaining to individual property, and those alluding to the sovereignty of the province; for which I will give the competent order, when I am advised by you of those chosen for the purpose. To give you, as I wish, an exact account of the adjacent islands to this province, is almost beyond my power, for the want of a general map that delineates their posi-

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tions, extension, and circumstances; but, with the exception of Amelia, which is in the possession of the United States, and that forming the harbor of this port, known by the name of St. Anastacia, on which is situated the look-out house, all the rest are nearly without population, as likewise the public lands. You will therefore have a knowledge of those to be taken possession of as Government property, under the impression there may be of their not being granted. I believe want of exactitude will suffer no difficulties to arise, seeing the good faith and long possession which the Spanish Government has had of them since the treaty concluded between her and Great Britain,

at Versailles, the 19th September, 1783, in which no particular specification is made of said islands, nor is there any document relative to the affair. The plain and ingenuous manifestation with which I have tried to satisfy the particulars contained in your note of the 8th, must convince you of the friendly disposition to fulfil the commission confided to me with that harmony and friendship which has until now guided us, and which, I am certain, will not be interrupted, as I have the greatest opinion of the amiable qualities which adorn you. God preserve you many years.

JOSE COPPINGER.

Colonel BUTLER,

No. 8.

Return of the persons employed, and other individuals depending on the national treasury, of the city of St. Augustine, East Florida, that are to be embarked for the Havana, agreeably to the treaty concluded between Spain and the United States, expressing such as are married, and the number of their children.

Departments.	Employment.	Names.	Women.	Children.	Total.
National revenue	Minister of the national revenue	Don Gonsalo del Prado	1	-	2
Do.	Commissioned clerk	Don Jose Saavedra	-	-	1
Do.	Assistant clerk	Don Manuel Crespo	1	-	2
Do.	Collector and treasurer of Fernandino	Don Domingo Reyes	1	5	7
Do.	Notary public of the finance	Don Juan Blas d'Enralgo	1	9	11
Do.	Custom-house guard	Francisco Gonzales	-	-	1
National magazine	Ordinance storekeeper	Don Juan Robles	1	2	4
Do.	Confidential laborer	Don Santiago Gonzales	-	-	1
Do.	Do.	Don Augustin Magrenan	-	-	1
Board of works	Overseer invalided	Don Jose McGomez	-	-	1
Do.	Blacksmith	Don Francis Giel	1	1	3
Do.	Armorer	Don Antonio Andrew	-	-	4
Do.	Cooper	Don Nafuel Andrew	1	5	7
Military hospital	Comptroller and acting intendant	Don Francis Reyes	1	4	6
Do.	Principal physician	Dr. Don Jose P. Peraulta	-	-	1
Do.	Surgeon	Don Juan R. Bejarano	-	-	1
Do.	First assistant	Don Antonio Cordova	-	-	1
Do.	Chief apothecary	Don Ramon Fuentes	1	10	12
Do.	Cook	One	-	3	4
National schooner					
Barbarita	Captain	Don Miguel Acosta	1	6	8
Do.	Boatswain	Mateo Ponce	1	2	3
Do.	Seamen	Three	-	-	3
Pilot's launch	First pilot	Don Pedro Mirando	1	4	6
Do.	Second pilot	Don Francisco Logano	1	6	8
Do.	Seamen	Twelve	7	16	35
Custom-house boat	Coxswain	Don Pedro Tropell	1	1	3
Do.	Seamen	Three	1	5	9
Gunboat Zeloza	Patron	Don Nicolas Rodrigues	1	-	2
Do.	Seamen	One	-	-	1
Gunboat Ymutable	Patron	Don Juan Mestre	1	8	10
Do.	Seamen	Three	-	-	3
Public school	Schoolmaster	Don Eusibio McGomez	1	7	9
Indian department	Interpreter	Don Antonio Huertas	-	5	6
			25	99	173
		Convicts	-	-	17
		Total	25	99	190

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REMARKS.—No transport is required for the individuals belonging to the schooner *Barbarita*, the gunboats *Zeloza* and *Ymutable*, as well as those of the launch and custom-house boat, as they are to perform the voyage in the first of these vessels. Moreover, that in the total of the persons employed contained in this return, there are some who, from sickness, cannot proceed with the expedition.

JOSE COPPINGER.

ST. AUGUSTINE, June 11, 1821.

No. 9.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, E. F., June 13, 1821.

SIR: Your note of the 11th instant, with the accompanying documents, I had the pleasure to receive last evening. The sentiments expressed therein have been duly examined and properly appreciated. The information contained in the schedules you have furnished will enable me to arrange the transports, I hope, satisfactorily. Permit me to hope that you will give such instructions to the commandant of engineers as will authorize him to prepare an inventory of the lots, squares, public edifices, fortifications, barracks, and other public property comprehended in the cession, together with a plan of the respective towns or places, in which it is peculiarly desirable to have the public property designated by some color different from that owned by individuals, and to have attached their extent of limits. On the arrival of the officer whose functions embrace this duty, I shall immediately give him the necessary orders for their reception, of which I shall duly apprise you. I shall take occasion to designate, shortly, a suitable person to receive the archives and documents which relate directly to the property and sovereignty of this province, as authorized by you. It now becomes necessary to notice particularly that part of your Excellency's note which relates to ordnance, military stores, &c.; and I regret that part of my note of the 8th seems to have been misunderstood wherein I made the expression "fortifications, with their appendant defences;" which was intended to convey distinctly to you that my Government considered the artillery in the fortifications appendant, and of right belonging to them, and embraced in the meaning and intention of the cession, and, therefore, to be left with them. I had fondly hoped that the same construction would have been given by our respective Governments to the treaty; but, from the tenor of your letter in relation to the artillery, it would appear that your instructions have rendered their removal necessary. Should this be the case, it becomes my duty to adhere strictly to the same system of construction in every part of the treaty embraced by my instructions; and I therefore solicit the information, that I may adopt such measures as the subject requires. So soon as the foregoing point is disposed of, I shall immediately call on you to meet each other's views in conference, touching all the matters that will remain for discussion; and I must be permitted to assure you that my hopes and expectations

of a happy and speedy termination of our respective duties are not in the least diminished; and I renew to you the assurance of my most respectful consideration and great regard.

ROBERT BUTLER.

His Ex^{cy} JOSE COPPINGER,
Governor, &c. St. Augustine.

No. 10.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 14, 1821.

I have given the necessary orders to the commandant of engineers to prepare the inventories of the lots, squares, public edifices, fortifications, barracks, and the rest of the property appertaining to the nation, manifested to you in my note of the 11th instant, that you would of course, on your part, name the person to receive them; said commandant of engineers will deliver suitable plans, and in that of the town will be found delineated the lots and other public property, with the marks and explanations separately, (that detail which you desire;) as also will be ready for delivery the documents that have direct relation to the property and sovereignty of this province; for the particulars of which I refer you to my said note. After weighing the expression of your note of the 10th instant, which treats of the "fortifications with their dependencies, or appertaining defences," understood by me in the literal sense, was, that dependencies signified the exterior works of the fortification—magazines and other similar works, such as the lines and palisades that unite the fortress of this city and surround it. For this reason I found no difficulty, and I took a cursory view of the expression; but having given rise to the manifestation that you have been pleased to make me, that your Government considered the artillery, ammunition, and ordnance stores that are in the fortifications appertaining to them by right, and that such effects are comprehended in the meaning of the cession, I must inform you that a contrary explanation has been given by my Government on this point; and you will therefore permit me to make some observations that will convince you, I am persuaded, of the rectitude of this judgment. By fortification, I understand the work that is raised to defend and enclose a certain space, the work consisting, in particular, of the edifice, but not in the arms, ammunition, and ordnance stores, in which each nation varies in its structures, tactics, and military laws. If it is an axiom that the fortifications want arms and ammunition for their defence, it is equally so that they want force for their management, as likewise the necessities for their subsistence; by which, if the support of the question consists that the fortifications to be defended require the first, by this identical reason the second may be demanded, as there is as much propriety in the one as the other; whenever, without the reunion of these things, it will not be said that is a fortified point, and in a state of defence. Under a different aspect will the moveable and other furniture, then in use in the barracks and public buildings, be delivered with them. It is not

reasonable that it should be so, as the lots, furniture of the troops, and other utensils that serve for the convenience and necessity of those that inhabit them, cannot be included in the delivery. It is observed between nations, that by the sale, cession, exchange, and conveyance of this class of property, is understood merely the buildings, unless it is stipulated decisively that in the sale, cession, &c., the furniture, with the rest of the moveable effects, is a part of the property; and it is very clear to infer that in the treaty, where it distinctly mentions the delivery of the fortifications, it is solely the material and immoveable parts, but not the goods and effects necessary for its defence. It is under this belief that the Spanish Government directs me to agree with the commissioners of the United States, in the mode of removing the troops, ammunition, baggage, &c.; from which I infer that the whole is to be executed at their charge. In conclusion, it is well known that, on the delivery of this province by Great Britain to Spain, the former withdrew all the above-mentioned effects, as being the practice in similar cases, unless stipulated for otherwise. I remain in the persuasion that what I have expressed will be sufficient, in order that the meaning and interpretation may be rectified, which you pointed out to me as the instruction given by your Government to the expression in the treaty relative to the fortifications; and weighing, as I am assured you will, the essential part of this note, we may proceed to the points still depending, and conclude with mutual satisfaction our respective duties. God preserve you many years.

JOSE COPPINGER.

ROBERT BUTLER, Esq., *Adj. Gen., &c.*

No. 11.

Colonel Butler, to Governor Coppinger.

ST. AUGUSTINE, June 15, 1821.

SIR: Your note, under date of yesterday, in answer to mine of the 13th instant, has been handed to me this morning. I feel great satisfaction at your having given such general attention to the subjects contained in my note aforesaid. There are two points in your note which claim, on my part, explanation. The first relates to the following sentence, as given by you, in quotation from my note of the 10th, viz: "fortifications with their dependencies, or appertaining defences." As this is calculated to give impressions different from what was expressed, I beg to be excused for giving the annexed quotation from the copy in my possession bearing date the 8th, and not the 10th instant, and which is in the following words, viz: "fortifications, with their appendant defences." The second point relates to the expression in your Excellency's note just received, and of which the following is a quotation: "That your Government considered the artillery, ammunition, and ordnance stores that are in the fortifications, appertaining to them by right, and that such effects are comprehended in the meaning of the cession." Opposed to which, I insert the following quotation from my note of the 13th instant, and to which you allude, viz: "That my Government considered the artillery in the fortifications appen-

dant, and of right belonging to them, and embraced in the meaning and intention of the cession, and, therefore, to be left with them." From this expression, your Excellency will certainly perceive that the United States laid no claim to the ammunition and ordnance stores. Could I think myself at liberty to enter into discussion on the merits of the construction which my Government has given to the treaty, in relation to the artillery. I flatter myself that I could convince you, satisfactorily, that the meaning and intention of the contracting parties were, that the artillery in the fortifications was appendant to, and should remain with them. Such would also appear to have been the impression of the Captain General of Cuba, from his order to you of the 5th ultimo, (a copy of which I have received from the United States Commissioner, from Cuba,) in which he does not require the removal of the artillery; added to which, the total silence of the seventh article of the treaty on the subject of furnishing transportation for the artillery, ammunition, and ordnance stores, or even provisions for the subsistence of the troops on their passage. As I feel myself authorized to infer, from your note of the 14th instant, that you are determined to remove the artillery, it becomes my duty to enter my protest against the measure. But, before appending it to this communication, I would suggest that, should you feel authorized to form a different conclusion with regard to the artillery, and to determine to leave it, I will engage to furnish a reasonable proportion of transportation for the ammunition and ordnance stores; but, on the other hand, should you still determine to remove the artillery, I do hereby respectfully protest against the measure, and declare that I do not consider the United States bound to furnish either transportation or escort for the artillery, ammunition, and ordnance stores; and that they have, and will exercise, a claim on the Spanish Government, as well for the artillery so removed, as the provisions which they have procured for the subsistence of the Spanish troops from this to the Havana, should the same be made use of. As this point now remains for decision exclusively with you, and should that decision correspond with the sentiments contained in your last note, I consider it placed out of the pale of my duties, and subject to future discussion between our two respective Governments alone. I have to request that the public property at Amelia Island will also be embraced in the plans preparing by the commandant of engineers. I shall do myself the honor to call and confer with your Excellency on to-morrow with respect to our further duties, and conclude with renewed assurances of personal esteem and great regard.

ROBERT BUTLER.

His Ex^{cy} Governor COPPINGER.

No. 12.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 16, 1821.

SIR: I had the honor of replying in my last note to yours of the 8th and 13th, (which last, through

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mistake, was referred to instead of that of the 10th,) on the same subjects of which you required an explanation in your note of yesterday. In my opinion, the expressions in your first two notes are synonymous, viz: "fortifications with their appertaining defences," or their "appendant defences;" and if by these you wish to give them different constructions, as you indicate to me in your last, it is clear that, on my part, the competent explanation given you fully in the note of the 14th was what I understood by such words; and having manifested to me the sense with which you wrote them, I consider that dwelling any longer on the subject would waste insensibly the time which ought to be dedicated to objects of more interest. You are aware that I am merely the executor of the orders that my Government communicates to me, which I must strictly follow. In my former, I mentioned fully that my opinion was, that, in the word *fortifications* in the treaty, the artillery and other moveables were not comprehended; and you maintained that, from the signification of that word, and the intention of the two contracting Powers, the artillery in the fortifications was appendant, and of course belonged to your Government, which you endeavored to prove from the copy transmitted to you of an official letter from his Excellency the Captain General to me, bearing date the 5th of May, in which he does not make any particular mention of the transportation of the artillery; and although it is so, I am sorry they have not likewise transmitted you copies of the remainder of his Excellency's official correspondence. But should it not be so, I will not deprive you of a knowledge of the royal schedule of the 24th of October last, in which His Majesty positively orders that all the papers and effects that belong to the nation, and are not found comprehended or mentioned in the clause of the cession, shall be transported to other parts of the Spanish dominions; in which case I have considered the artillery. Notwithstanding, wishing to give you a proof of respect, and avoid protests and reclamations, I propose, and confirm myself, that the cannon mounted at present on the batteries of Fort St. Mark's and Matanzas, (the only permanent fortifications that exist in the province,) remain as they actually are, until our respective Governments make the explanation and agreement they may think proper; but you will provide the transports for the residue of the artillery, a larger number not being necessary for their defence in the change of Governments, as with it ceases all apprehension of any disturbance by land, and the lines being unnecessary on which some were mounted. I also offer to leave with you a moderate quantity of ammunition and ordnance stores for the use of said pieces, making of the whole an inventory, that the Spanish Government may be answered and satisfied should they determine its delivery; to which proposition I flatter myself you will consent. The commandant of engineers will deliver you the plan of Amelia, with the information that may exist relative to it. I am assured that, in the conference you mentioned, all the pending points will be more satisfactorily adjusted

than is possible in our written communications, which are delayed in consequence of the necessity of their translation, and where it is to be apprehended that our respective expressions may not be conveyed exactly. I will have much satisfaction in repeating to you personally my respects, and I assure you, in the mean time, of my high consideration and esteem.

God preserve you many years.

JOSE COPPINGER.

R. BUTLER, Esq. Commissioner, &c.

No: 13.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 18, 1821.

SIR: I received your note of the 16th instant, on that day, in answer to mine of the 15th. The promised translation was handed this morning. After duly examining the documents you were pleased to have me furnished with, in relation to the stores, artillery, &c., and after a careful examination of my instructions touching those points, I find that I cannot meet your proposition. While I sincerely regret the difficulties which we are, from our respective instructions, placed in, I feel extremely desirous to place the subject happily at rest between us, and therefore respectfully propose the following arrangement, in addition to that given in my note of the 15th; which is, that you will consent to leave all the artillery, with their implements and a proportion of ammunition, &c., for which I will give a corresponding receipt, placing the proper construction of the treaty in the hands of our respective Governments; and to facilitate, as much as possible, the contemplated exchange, I will engage to furnish transportation for the ammunition and stores, save that of the cannon balls, bombs, and grape shot, which you can have transported; and, in like manner, the transportation furnished on my part, as well as the provisions consumed on the voyage, and the ammunition which may be left with me, shall be subject to a similar adjustment, on the part of our respective Governments. Should your instructions, in conjunction with your sound judgment, authorize you to adopt this proposition, I shall be more than pleased, as I am constrained, from a sense of duty, to say that it is the only arrangement on this subject which I feel at liberty to enter into; but should your views not correspond with mine, whilst I regret the circumstance, I must refer you to the sentiments of my former note, in which is embodied my protest, for your final decision thereon. It is now proper that I should inform your Excellency that the United States are prepared with escort, transport, provisions, and water, to accommodate the Spanish officers and troops to the Havana; and that I am prepared to enter immediately into the general arrangement for the reception of the province which you have been selected by your Government to deliver. I have designated Major Cross as a fit and proper person to receive the archives which relate to the sovereignty and individual property of the province; and Lieutenant Baird, of the corps of artillery, to

receive the inventories, plans, &c., and to take possession of the islands dependant, public lots and squares, public edifices, and other buildings which are not private property; and have therefore to request that you will give the necessary orders in good time, as you were pleased to signify in your note of the 11th instant. I must advert for a moment to the expression in your last note which implies a waste of time in the explanations which I gave in my note of the 15th; with these sentiments I beg leave to differ, as I deem it an essential duty to correct misunderstandings or incorrect quotations on important subjects. I need not urge upon your Excellency how desirable it is that the contemplated exchange should be speedily effected, as well on account of the situation of the troops lying off this city, as of the accumulating expense daily arising from our state of preparation under the treaty. Permit me to hope, however, that I may be furnished with your final decision on the subject of the artillery at as early an hour as possible.

ROBERT BUTLER.

Governor COPPINGER.

No. 14.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, EAST FLORIDA,
June 19, 1821.

I have examined the contents of your Excellency's letter of yesterday, and, in answer, I wish to inform you that, in order to facilitate the delivery, and give your Excellency an unequivocal proof that it is my primary object, (as we cannot, consistently with our respective orders and instructions, agree on the term *fortification*, mentioned in the treaty,) we ought to adopt, on our part, a prudent and friendly position, at least until our Governments resolve on this point. If I comprehend your Excellency's propositions, they are, that if I do not consent to leave all the artillery subject to the decision of our Governments, your Excellency offers to transport, on your account, the ammunition and stores, excepting the articles of cannon, bombs, balls, and grape shot, which will remain at mine; leaving subject, likewise, the transportation which your Excellency offers, and the rations consumed on the voyage of said ammunition and stores, to superior determination; and the ammunition and implements of war that I leave to remain subject to the same determination. I agree that it should be so; and I suppose that your Excellency calculates on there remaining in the forts St. Mark's and Matanzas (the only existing points of permanent fortification) the artillery that for their defence are actually in battery, as your Excellency proposes in your note of the 16th, and of the number and calibre of which a separate statement has been given. In this conception which I have formed of your Excellency's proposition, I repeat my acquiescence; and as it is my wish that the aforementioned artillery, balls, &c., not comprehended among the articles that are to be left, should be carried and

convoys at the same time with the troops, I hope that your Excellency will ratify the same, in the assurance that I will adopt the most prompt measures in order to the attainment of this effect. I am informed that all is prepared on the part of your Excellency for the evacuation of the territory by the garrison under my charge, and that your Excellency is in readiness to enter into the general arrangement for the receipt of the province; therefore, and that we may commence carrying the same into effect, your Excellency can ordain Major Cross to apply to me for the delivery of the documents of the secretary's office of this Government, appertaining to the national property. As respects the delivery of the public archives, containing the records of individual property of this province, that will be delayed until various doubts that occur are cleared up; but they will not be removed until then, nor will I leave this place until all matters are regulated and concluded between us that demand my personal assistance. Lieutenant Baird, of the artillery, can likewise apply to me, that he may, with my intervention, commence receiving the inventories, plans, &c., from the engineer's department. Your Excellency makes an observation that I cannot pass in silence. When an expression is understood, and there has been made thereon the explanation it requires, I consider the term of answering closed; and as my official letters of the 14th and 16th satisfy what your Excellency presented in yours of the 15th, I consider that I was warranted, without infringing on delicacy, to say that detaining ourselves would sensibly delay time, and postpone matters of more importance. But if it offers any doubts, I am disposed to clear them up; and should there be none, your Excellency will do me the justice to participate in my good wishes. From the moment I received the orders of my Government to act in this commission, I have been busy, and am incessantly busy, in its promotion. Your Excellency knows that we are greatly in advance of the time allowed by the treaty for the evacuation; and although the situation of your troops stimulates my exertions, I could have wished the delay of their approach a few days longer, at least until our accordance could have fixed on a probable period in which their coming on would have been more opportune; but, as it has not been so, I am disposed to give up the possession of the territory, by the evacuation of my troops, as early as possible, and which will be governed by the final resolution of your Excellency on the artillery, if that is agreeable to what I have expressed in the beginning of this letter; and, in the meantime, I renew my particular respects and high consideration of your Excellency.

God preserve you many years.

JOSE COPPINGER.

By order of His Excellency Don Jose Coppinger:

GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,
Adjutant General &c.

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No. 15.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 20, 1821.

SIR: I have received and examined the contents of your note bearing date yesterday, in answer to mine of the 18th. I find that your Excellency has not comprehended my proposition as I could have wished. I proposed that you should leave all the artillery, and that I would furnish transport for the ammunition, stores, &c., except balls, bombs, and grape shot, which you could have transported. That part which relates to leaving, subject to the decision of our respective Governments, the cannon, implements thereto belonging, ammunition to be left with them, provisions for the voyage, and the transport to be furnished by me for the ammunition and stores, as expressed in my letter, seems to have been perfectly comprehended; and I now, with a view of putting to rest this embarrassing subject between us, ratify the construction given by you to the said proposition, in its full extent, which is comprehended as follows: The artillery (with the implements complete, and a reasonable proportion of fixed ammunition) as mounted on St. Mark's and Matanzas, and comprised in the statement handed by your aid-de-camp, as follows:

		<i>Iron artillery.</i>		
		24 prs.	16 prs.	8 prs.
St. Marks	- - - -	10	11	0
Matanzas	- - - -	0	0	2
		<i>Brass mortars.</i>		<i>Brass howitzers.</i>
		11 inch.	7 inch.	7 inch.
St. Marks	- - - -	1	1	2
Matanzas	- - - -	0	0	0

Making, in all, twenty-seven pieces to remain in battery. The provisions and transports for the stores, together with the ammunition to be left, are all to be subject to the amicable arrangement of our respective Governments; and I also ratify your expectation that the artillery, balls, &c., not comprehended to be left, and for which you furnish transportation, shall be considered under convoy, provided your Excellency shall cause to be rendered to me an article signed by, and binding on, the captains of the vessels who will expect convoy, by which article the names of their vessels shall be given, and their agreement placing themselves under the orders of James Ramage, Esq., commanding the United States convoy, until their arrival and delivery at Havana. I shall give proper attention to the other subjects contained in your Excellency's note aforesaid in good time, and do myself the pleasure to see you shortly, and confer with you about the archives of this province which relate to individual property. I beg leave to express to you, in conclusion, that my Government considers the transports employed on its part, for the fulfilment of the stipulations of the treaty, as being free from port charges or other duties, both at this place and Havana; for which I hope you will give me an assurance. I highly appreciate your intentions of delivering this province at as early a period as possible, and have only to regret the multiplicity of business which presses on you.

I renew to you the assurance of my great regard and high consideration.

ROBERT BUTLER.

His Ex'cy JOSE COPPINGER,
Governor and Commissioner.

No. 16.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 21, 1821.

It affords me much satisfaction to find that a final and friendly conventional termination is placed on the business of the artillery, ammunition, and other implements of war, until our Governments determine the question definitively. To-morrow will be commenced, on my part, the embarkation of the cannon, bombs, balls, and grape shot; and I hope your Excellency will be pleased to inform me if you have in readiness the vessels that, on your part, are to transport the ammunition and implements that do not remain for the service of the twenty-seven pieces of artillery mounted on the forts, which were particularly mentioned in the statement handed by my adjutant, and expressed in your Excellency's note of yesterday, that I may make the necessary dispositions for the most early and active steps in their delivery. I return thanks to your Excellency for having acceded to my wishes in permitting the vessels freighted by me for the transportation of the cannon, bombs, &c., to be embodied in the expedition, and convoyed by the United States armed vessel commanded by James Ramage, Esq.; and for that purpose I will furnish your Excellency, in due time, with the necessary notice, in order to have the same effected, according to the desire your Excellency has expressed.

I have the pleasure of assuring your Excellency that the vessels employed by the United States in the evacuation of this province will pay no duties whatever on their entrance into or departure from this port, and that they shall be furnished with pilots whenever wanted. But I cannot give you the same assurance with respect to the port of Havana, as I know not what may be the determination of that superior Government; but I am under the impression it will act with equal liberality. The visits of your Excellency are very pleasing to me, and will be more so, as I contemplate, in personal conferences, better and more speedy adjustments of the remaining subjects, necessary to a happy conclusion of our commissions. Before closing this, permit me to request of your Excellency information on the kind and quantity of provisions composing the rations that are to be supplied to the Spanish military and civil officers, and the troops, on the voyage, for the purpose of knowing what other articles they may provide themselves with for their accommodation.

I reiterate to your Excellency my sincere regard and particular esteem. God preserve you many years.

JOSE COPPINGER.

By order of his Excellency Don Jose Coppinger:
GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,
Adj. Gen. and Commissioner U. S.

Transactions in Florida—General Jackson.

No. 17.

Colonel Butler to Major T. Cross, of the United States Army.

ST. AUGUSTINE, June 22, 1821.

SIR: I have selected you as a proper person to receive and receipt for the archives which relate to the sovereignty of this province, as comprised in the second article of the late treaty between the United States and Spain. Those relating to the property of individuals will not be demanded, as they are still a matter of discussion between the commissioners. You will therefore call on his Excellency Don Jose Coppinger, Governor and commissioner, who will authorize a person to deliver the documents to you. A copy of your receipt will be submitted with the documents when received.

ROBERT BUTLER,
U. S. Commissioner.

Major T. Cross, U. S. Army.

No. 18.

Colonel Butler to Lieutenant Baird, of the United States Army.

ST. AUGUSTINE, June 22, 1821.

SIR: I have selected you to receive from the proper authority at this place the inventories, plans, &c., which relate to the subject islands of this province, and all public lots and squares, public edifices, and other buildings which are not private property. You will therefore wait on his Excellency Don Jose Coppinger, Governor and Spanish commissioner, who will authorize an officer on his part to deliver them. You will pass a corresponding receipt therefor, (retaining a copy,) and hold the same subject to my order only.

ROBERT BUTLER,
U. S. Commissioner.

Lieut. T. J. BAIRD, U. S. Army.

No. 19.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 22, 1821.

SIR: Before answering the particulars of your note of yesterday, I beg leave to inform you that I have given to Major Cross and Lieutenant Baird the necessary orders, as contemplated in your letter of the 19th, and they will wait on your Excellency accordingly. In answering that part of your note aforesaid which relates to the archives or records of individual property, I take for granted that we understood each other in that, respectively, in our conference yesterday, and will remark, accordingly, that, as there appears some doubt on your part, you are desirous to await the decision of the Captain General of Cuba on the subject; at the same time, you are disposed to give me an official assurance that they shall not be removed from the province until such decision is received. Your motives cannot be otherwise than approved on my part; and as the Adeline schooner will return to this port from the Havana, a favorable opportunity offers for the conveyance of the Captain

General's answer. You will permit me to hope that you will embody my sentiments as expressed to you on that subject, in your letter to the Captain General, as I deem it of the utmost importance, for the security of the titles to the property owned by the inhabitants of this province, that the only evidence (which is the records) that will be recognised by my Government should remain a permanent basis of security to them in their possession. I will now take up the subject of your Excellency's note of yesterday, and will inform you the sloop Endeavor, of forty tons, has been procured for the purpose of affording additional accommodations to the families of the officers, and also to transport the ammunition and stores contemplated by our mutual understandings, and which I had the honor, at your request, to send you yesterday for examination. The captain of this vessel will be instructed to report to you early on to-morrow, and take your orders. Enclosed your Excellency will find an estimate of the provisions to be furnished on my part, embracing also their kinds and component parts, which will afford you the information desired. You will also receive a memorandum of the accommodations afforded by the transports, and I am persuaded that you will discover the propriety of placing the military officers who have families on board the Meteor, as the accommodations are entirely private, each state room having a Venetian door, and unconnected with each other. The cabin accommodations of the sloop also afford much convenience, as you will readily perceive. As you were pleased to express yourself satisfied with these accommodations in our conversation yesterday, I shall be gratified to know that you continue so. It may be of some importance to the officer commanding the United States convoy to have completed at an early day the arrangements necessary for the government of the fleet. I hope you will afford the information on that head as soon as possible. After expressing my thanks for the exertions you are daily making to facilitate my wishes, I conclude with a hope that you will make a request of the Captain General that the transports shall enter Havana and disembark free of duties.

ROBERT BUTLER,
United States Commissioner.

His Exc'y Governor COPPINGER.

A.

[Documents enclosed in the foregoing communication.]
Memorandum of the transports provided for the removal of the Spanish authorities from St. Augustine to the Havana.

Ship Meteor, three hundred and seventy tons;

Cabin accommodations.

	Berths.
6 state rooms, with 2 single berths in each	12
1 state room, with one single berth	- 1
2 state rooms, with 6 single berths in each	12

Total - - 25

Accommodations between decks ample for four hundred men.

Transactions in Florida—General Jackson.

Sloop Endeavor, forty tons;

Cabin Accommodations.

10 berths, including two State rooms - 10

Total - 35

Estimate of provisions for the subsistence of the Spanish officers and troops and their families, and the civil officers and their families, on the passage from St. Augustine to the Havana, reckoning a voyage of twenty days.

The Military.

	Rations.
16 officers, at 3 rations per day -	960
5 ladies, at 2 rations per day -	200
19 children, at 1 ration per day -	380
	1,540
321 rank and file, at 1 ration per day, 6,420	
14 soldiers' wives, at 1 ration per day -	280
29 soldiers' children, at 1 ration per day -	580
	7,280

Civil Departments.

15 officers, at 3 rations per day -	900
10 ladies, at 2 rations per day -	400
52 children, at 1 ration per day -	1,040
	2,340
34 laborers, seamen, &c., at 1 ration per day -	680
15 women, at 1 ration per day -	300
47 children, at 1 ration per day -	940
17 convicts, at 1 ration per day -	340
	2,260
Total -	13,420

Component parts of a ration.

$\frac{3}{4}$ pound of hard bread,	} to each 100 rations.
$\frac{1}{4}$ pound of pork,	
1 gill of rum or whiskey,	
4 quarts of vinegar,	
12 quarts of pease or beans,	
1 $\frac{1}{2}$ pound of candles,	
2 pounds of soap,	

Total quantity of Provisions.

2,910 pounds of pilot bread, for the officers, ladies, and their children,
 7,155 pounds of ship bread,
 10,565 pounds of pork,
 319 gallons of whiskey,
 134 gallons of vinegar,
 50 bushels of beans,
 196 pounds of candles,
 268 pounds of soap.

The ship Meteor is bound by her charter-party to have on board eight thousand gallons of sweet water, and to furnish sufficient fuel for cooking on the voyage.

17th Con. 1st Sess.—79

No. 20.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, June 23, 1821.

SIR: In answer to your esteemed note of yesterday, I assure your Excellency, as I mentioned in my letter of the 19th, that until I receive the answer of my Government on the doubts arising on the delivery of the public archives relating to the individual property of the inhabitants of this province, and on which I have on this date written for information, they shall not be removed from this place, and they shall remain precisely as they are. I shall likewise remain here until this point is decided, as well as on that of the artillery, on which I have made my report; and, in the mean time, I will have formed an exact inventory of the documents contained in those archives. I will inform his Excellency the Captain General of Cuba of the sentiments your Excellency has expressed respecting the rights of the inhabitants holding property here; and I will likewise lay before him the question embraced in the last paragraph of your Excellency's letter: whether the American transports entering the port of Havana shall be free of duties? I have noted the object to which your Excellency has destined the sloop Endeavor, and will give orders that her loading shall be entered on as soon as possible; but the article of powder will be reserved until the last moment, in order to diminish the danger of accidents; and, for the same reason, it appears to me a matter of prudence that no other person should be entered on board of her than the necessary crew; and that the families of the civil officers may not thereby be cramped in their accommodations, I will distribute them in the vessels freighted on my part for the transportation of the cannon, bombs, &c., if your Excellency will have the goodness to cause them to be supplied with the rations, &c., for the voyage; and, with this view, I will give you timely notice of the distribution I may make. The conveniences of the Meteor will be appropriated to the military; but, as we have separately agreed, the colored troops will be shipped in the transports I have freighted, and for which I hope your Excellency will be pleased to order rations to be in readiness for delivery according to advice I shall communicate in proper time. I appreciate the statement that accompanied your letter for my information; and, advertent to that of rations, (which is calculated for a voyage of twenty days,) your Excellency will pardon my making the observation that, in the present season of the year, they are frequently extended to thirty days, and more. Experience affords the example of vessels having to return here after being twenty-five days at sea; and, for this very reason, the packet schooner of this Government, (the Barbarita,) when sailing to the Havana in these months, is supplied with rations for forty days. I have conceived it proper to state these circumstances for your Excellency's information. Annexed is a statement of the vessels for which I have solicited convoy, and which I transmit for the purpose your Excellency has expressed;

and I have much pleasure in assuring you of my particular respect and consideration.

God preserve your Excellency many years.

JOSE COPPINGER.

By order of his Excellency Don Jose Coppinger:

GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,
United States Commissioner.

Statement of the vessels freighted by the Spanish Government of this place for the transportation of the cannons, balls, bombs, and grape shot to be removed to the Havana, and for which convoy is requested.

American schooner Adeline, Captain J. Israel.
American schooner Florida, Captain Charles Johnston.
American schooner Alexander, Captain Silas Rogers.

JOSE COPPINGER.

ST. AUGUSTINE, E. F., June 23, 1821.

No. 21.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 26, [27.] 1821.

SIR: I received your esteemed note of the 23d, in answer to mine of the 22d. I was desirous to have a conversation with you previous to writing you again, and am thereby enabled to give you more satisfactory information touching some of the points contained in your last. The subject of the archives relating to individual property I consider perfectly understood between us, and will, therefore, remain silent on that head until you receive the further instructions of your Government in relation thereto. I return you my sincere thanks for your promise to communicate my sentiments on that subject to the Captain General, also my hopes that the American transports would be permitted to enter the Havana free of duties. I have thought it advisable to order an additional transport, fearing, from our late conversation, that the one furnished would not be sufficient, and also with a view of evidencing my wishes to render comfortable the families of the civil officers. You have been pleased to express your entire satisfaction with this arrangement, and that no more will be required of me. I shall pay the necessary regard to the suggestion made by your Excellency on the subject of provisions, and shall use every means in my power to afford ample supplies to guard against accidents. In making my estimate, I was governed by the information of a number of sea captains, who all agreed that twenty days would be ample and liberal; but I hope I shall be able to correct the estimate, and afford you about thirty days' supply. The provisions will be turned over to your commissary by the commissary of the United States, and receipts required therefor; after which, the officer commanding the detachment can regulate the distribution to the different vessels as you may require. The understanding which now happily exists between us leaves me nothing further to communicate upon, except the

preparation for the delivery, and the contemplated receipts to be passed between us on that subject; and I have only to request that you will fix upon some early day for the delivery, corresponding with your necessary convenience, and the assurances which you have been pleased to make me personally; and any suggestion which you may be pleased to make with respect to the manner differing from our mutual understanding shall be happily received and duly considered.

ROBERT BUTLER.

His Ex'cy DON JOSE COPPINGER,
Governor, &c., St. Augustine.

No. 22.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, EAST FLORIDA,
June 28, 1821.

SIR: With much esteem I received your Excellency's note of yesterday, bearing testimony to the unanimity of our sentiments. You will do me a favor in directing the captains of the vessels you have freighted to transport the stores to come forward and receive their loading, as that part of the business is delayed, and a part of the effects are in waiting on the shore. It would be very pleasing to me to comply with your request in appointing a day for the exchange of flags, but I fear to adventure on my judgment, as that depends on the shipment of the artillery, which, although progressing as fast as possible, might be delayed by a change of weather, and other occurrences with the captains of the vessels might render our efforts abortive. However, I will not lose sight of that request; and, as soon as a farther progression will warrant a calculation, I will inform you of it. As we accord on all the other contents of your Excellency's note, which I am answering, I shall use the freedom and friendly understanding that guide us in making known to your Excellency the following: Having given to the officers of this garrison the necessary information of the number, quantity, and quality of the rations that you offer for their voyage, they have represented to me that those rations are not suitable to their situations, and they claim to be supplied as His Catholic Majesty has provided by the regulations of the 18th July, 1805, which allow a board gratuity of thirty days from this to the Havana, at two dollars per day, with the allowance of more, should it be required, but liable to no deduction should the expenses be less; and this excludes the rations of the officers: they will only receive those stated for their wives and children, as they are equivalent to the allowance made by the Spanish Government for their families in similar cases. I therefore make it known to your Excellency, in the hope that you will be pleased to inform me, should you have no objection to supply the officers with the gratuity they claim, founded in justice, in order to their immediately receiving the same from the person your Excellency will inform me of; but, should it be otherwise, your Excellency is informed that it does not suit them, for the reasons stated, to receive those rations, and they hold their

right of claim on the Spanish Government for their board allowance provided in those cases. I present your Excellency a reiteration of my particular respects and high consideration.

God preserve your Excellency many years.

JOSE COPPINGER.

By order of his Excellency Don Jose Coppinger:
GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,
Adjutant General, &c.

No. 23.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, June 29, 1821.

SIR: I have received your Excellency's note of yesterday, in which you decline, for the present, appointing a day for the exchange of flags, and desire that the captains of the vessels I have freighted to transport the stores should be required to come forward to receive their loading, as that part of the business was delayed. I deem it necessary to remark to your Excellency, that the sloop Endeavor was procured for that purpose, and required to report for your orders; and, in a conversation had with you some days since, you were pleased to remark, that, should this vessel not be sufficient to transport those stores, you would dispose of the overplus in your vessels. In a subsequent conversation, you were pleased to signify that one vessel would not be sufficient, and alleged that no passengers would go on board the Endeavor, in consequence of her loading being principally powder; upon which I informed you that I would procure another vessel to take the balance of the stores, and to accommodate passengers. I have procured the promised vessel, and she will be ready to receive her freight early in the morning. You are pleased to inform me that the shipment of the artillery, although progressing as fast as possible, might be delayed by a change of weather; and as I observe, also, that but few of your balls, &c., have been put on board of your vessels, I feel somewhat at a loss to understand how any delay could have arisen on my part. I have deemed the foregoing observations necessary to exonerate me from any imputation of neglect of duty on the part of my Government, which your note is calculated to warrant. In answer to that part of your Excellency's note which relates to the allowance of a gratuity of thirty days, at two dollars per day, on the part of your Government to the officers, for their passage to the Havana, I can only remark that my instructions confine me to the furnishing provisions under certain conditions, and that those provisions will be placed in the possession of your commissary, subject to such disposition as you may think proper to make of them. I appreciate your Excellency's promise to give me, as early as possible, the information required as to the day for the exchange of flags; and will remark, in conclusion, that the transport has again arrived off this harbor, with the troops destined to occupy this province.

I renew to your Excellency my sentiments of great consideration and personal esteem.

ROBERT BUTLER.

His Ex'cy DON JOSE COPPINGER,
Governor and Commissioner.

No. 24.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, E. F., June 30, 1821.

I am satisfied that, on the part of your Excellency, there has been no delay in making the arrangements relative to the transportation of the stores. The object of my observation on that point was, that your Excellency would be pleased to notify the captains of the vessels you have freighted to appear and receive their cargoes, as a part of what they were to take was some days on the shore, ready for embarkation; for, although the captain of the sloop Endeavor did present himself immediately after your Excellency gave me notice that he was freighted for that purpose, he told me that he had to grave his vessel's bottom before taking in her load. She has now a part of her load on board. But, although your Excellency informed me of your having freighted another vessel on the 27th, as one was not sufficient to transport the whole, I do not yet know who the captain is, as he had not made his appearance this morning at ten o'clock. It is certain that I have still balls to ship; but this does not prevent going on, at the same time, with the shipment of the stores. This explanation will always show that neither on your part nor mine has there been any neglect in the prompt execution of our respective duties. When, in our conversations, we spoke of articles being shipped in my transports, it was under the impression that they would comprehend some small quantity, not adequate to the loading of another vessel, and which could be taken on board of my transports without inconvenience. Our official notes all terminated on this point, and to them reference may be had; but, in comprobation of my offer, I can cite to your Excellency that a part of the equipage of the troops is already shipped in my transports.

It being my duty to attend to the representation of my officers respecting their non-admittance of the kind of rations your Excellency proffers to them; as I must conceive, from the answer your Excellency has been pleased to give me on the subject, that you have not the power of altering what you have offered, I have resolved leaving to my Government the right of claim on your Government, in this case, as it may judge proper, to supply the aforesaid officers with the table allowance the Spanish nation has provided for them; consequently, the proposed rations will not be received, and those to be received for the other classes should, it appears to me, be served out on the voyage by the person who may have them in charge for the American Government, excepting such as are to be distributed among my transports, which will be received by the commissary I will appoint, and who will apply to your Excellency to that effect, with the necessary notice and in-

structions, immediately after your Excellency shall have, as I hope, informed me of your accordance. According to the arrangements made, the troops that are to occupy this province being in front of this port, I expect that on the 8th or 10th the evacuation may be effected by mine, and the possession concluded that I am to deliver to your Excellency, as the commissioner to receive the same. I am preparing the documents receptive by this important act; those of the other part of the possession being already realized, of which I wish to know if your Excellency is satisfied. I am this moment informed that the last vessel which your Excellency informed me of having freighted, and of which I have made mention in the first part of this letter, has appeared, and is taking in her cargo. I ratify the distinguished conception and particular estimation I have of your Excellency.

God preserve you many years.

JOSE COPPINGER.

By order of his Excellency Don Jose Coppinger.
GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER.

No. 25.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, July 2, 1821.

SIR: I have received your note of the 30th ultimo. The observations you are pleased to make on the subject of the transports are satisfactory. As the officers of the Spanish Government refuse to receive the American rations, I deem it necessary to require that you will be pleased to furnish me with a report of the persons who are to sail, that will be entitled to receive rations, that I can have the quantity set apart, ready for the reception of your commissary, as the United States do not furnish a commissary but to their own troops or prisoners of war, and it will be therefore necessary that you authorize some officer to receive and receipt for the provisions on the part of your Government. I shall give you an expression of my sentiments in relation to the documents, of which you say the possession is already realized, as soon as I shall be enabled to have them translated, that I can understand them perfectly. I cannot omit the expression of my thanks to your Excellency for having given the 10th instant as the longest period set apart for the exchange of flags, but still entertain great hopes that your business will be sooner completed, and hereby enable you to fulfil my wishes at an earlier day.

I have the honor to renew to your Excellency the assurances of my great respect and distinguished consideration.

ROBERT BUTLER.

His Ex'cy DON JOSE COPPINGER,

No. 26.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, July 3, 1821.

Your Excellency informs me, in your official letter of yesterday, that your Government only sup-

plies a commissary for the distribution of rations to its own troops and prisoners of war. Although I am not disposed to differ from your opinion, I would observe that the supplies your Excellency provides for my troops may overrun or fall short, according to what may be the length of the voyage. Should they overrun, I do not know if it is the intention of your Government to reclaim the balance; should they fall short, it is a matter of course that the deficiency is to be made good to those who wanted; and it may occur that the convey will have to seek a port and procure provisions to continue the voyage; consequently, I conclude that, as the American Government, on whose account the transportation is made, becomes the responsible party in either of the two latter cases, it ought to have the advantage in the event of the former. These reasons have induced me to believe that your Excellency would furnish an issuing commissary to the completion of this engagement. But, if your Excellency continue in the same opinion, I will appoint a person to wait on your Excellency with the statement you call for, and take charge of the rations, leaving to my Government the right of claiming the deficiency that may arise from future contingencies. Should it be possible for me to abbreviate the arrangement for the exchange of flags, which I have intimated in my former letter, informing you of it will afford me much pleasure. I remain, with the highest personal esteem.

God preserve you many years.

JOSE COPPINGER.

By order of his Excellency Don Jose Coppinger.
GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,
Adjutant General, &c.

No. 27.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, July 3, 1821.

SIR: That a more perfect understanding should exist between us, in relation to the archives which are embraced in the treaty of cession, and relating to individual property, is the object of this communication. I should, upon mature reflection, consider myself wanting in my duty to the inhabitants of this province, who are about to become citizens of my Government, if I withheld any statement in relation to the archives which might lead to the removal of any documents that would be of importance to their security, and which my Government considers included in the treaty. The following records are deemed indispensable to this object, viz: The royal or other orders, authorizing the Governors of this province to issue grants to individuals for lands, lots or squares; the evidence of indemnity offered by Great Britain, to her subjects who might leave their property in this province, and retire to her territory after the cession to Spain; the proclamation of the Spanish authorities, calling on those individuals to come forward and dispose of their property, or peaceably occupy it within certain periods, or the same would be confiscated, and the order of confiscation thereaf-

Transactions in Florida—General Jackson.

ter; the original records of all grants made in the province, either by His Catholic Majesty, the Captain General of Cuba, or the Governors of this province, respectively; the original records of all trials and decisions embracing individual property; and the original records relating to the execution of wills and administration of estates. The foregoing explanation is given to show you what I am bound to consider as the archives relating to individual property, and which are not to be removed from this place until the decision is had on the subject by our respective Governments; and I request that you will cause the Captain General to be furnished with a copy of this communication.

I have the honor to remain, &c.

ROBERT BUTLER.

His Ex'cy Gov. COPPINGER.

No. 28.

Governor Coppinger to Col. Butler.

ST. AUGUSTINE, July 4, 1821.

The note your Excellency was pleased to send me yesterday, in order to point out which are the records comprehended in the treaty of cession, and appertaining to private property, I have duly examined, and have to answer, that, confining myself to a compliance with the treaty, and with the orders of my Government, their liberal sense is the only guide to my endeavor in the execution; and, when any doubts arise, I consult them with that frankness necessary to ascertain my course and warrant my responsibility. Thus actuated, I early informed your Excellency with respect to the public archives in the *escribano's* office, or records bearing on private property of the inhabitants of this province—measures to which your Excellency was pleased to accede. It now appears that your Excellency advances pretensions to other documents, that I am sorry to say are, according to my conception, excluded from the delivery. I do not comprehend the ground on which you step your demand; therefore, and in order to report to my Government, by the earliest opportunity, that it may decide with yours on these points, and, at the same time, on those others in question, your Excellency will excuse my not entering into particular observations on each of these. I have much pleasure in repeating to your Excellency my constant esteem.

God preserve you many years.

JOSE COPPINGER.

By order of His Excellency:

GEO. I. F. CLARKE.

His Ex'cy ROBERT BUTLER,

Adjutant General and Commissioner.

No. 29.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, July 5, 1821.

SIR: I have read with attention your Excellency's note of the 3d instant, and, in answer, have to remark, that you will please to appoint a commissary to receive the provisions from the commissary of the United States, and receipt for

the same. As the transports are to be discharged at the Havana, the surplus provisions could not be reclaimed by the United States; hence, the supplies required by your Excellency will be furnished, and remain subject to the decisions of our respective Governments, as heretofore stipulated between us. I desire to be furnished, as soon as possible, with the estimate, as I am making arrangements for the removal of the surplus provisions from the transport, and entering into the necessary preparations for the exchange on Tuesday next, as advised by you. I enclose you a form required by Captain Ramage for the execution of the three captains of vessels to be convoyed, and hope you will have it entered into without delay, as he is desirous to have his instructions prepared immediately. In answer to the note of yesterday which your Excellency has done me the honor to address me, I beg leave to remark, that the only ground assumed on my part, in making the communication of the 3d instant, was, that of the faithful performance of my duty to my Government, and the individuals who are about to become citizens thereof; and I did not expect you to enter into particular observations on the subject of that letter, but I wished to give you timely information of what documents I considered to be the archives in our arrangement, and would be esteemed under the treaty sufficient to guaranty the possession of the inhabitants in their property; and that they might not be removed until the decision was had on the subject, when I could adopt such further amicable measures as are warranted by my instructions. If I comprehend your Excellency aright, it is, that you will communicate a copy of that letter, as requested, to the Captain General of Cuba.

I have the honor to renew to your Excellency the assurances of my great respect and high consideration.

ROBERT BUTLER.

His Ex'cy DON JOSE COPPINGER,

Governor and Commissioner.

No. 30.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, July 6, 1821.

I have appointed Don Juan Jose Robles, store-keeper general, to receive the rations from the commissary of the United States; and he has orders to present himself to your Excellency, without delay, to receive your directions to the person who will deliver them. Annexed you have minutes expressive of the daily allowance to be consumed on the voyage: your Excellency will thereby see that the amount is less than should be expected from the statement I gave you of the garrison and civil officers, which arises from the military officers not receiving rations, and a part of the civil officers being unable to move for the present. I am sorry that, at the conclusion of this business, we are not more on accord, as appears by your Excellency's expression of yesterday: "As the transports are to be discharged at the Havana, the surplus provisions cannot be reclaimed by the Uni-

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ted States; therefore, the supplies required by your Excellency will be delivered, and remain subject to the determination of our Governments, as has been stipulated between us." As to the first part of this position, your Excellency will be at liberty to reclaim or leave the provisions that will become a surplus, should the voyage fall short of the thirty days mentioned in my letter of the 3d; but, as it relates to supplies, I have not called for any; I have only requested that there should be provided, on your part, the provisions necessary to meet the wants of the voyage, should it exceed thirty days; so that not receiving (and there will not be received) more rations than for the persons your Excellency has spontaneously offered to supply, our Governments can only have to decide, relative to provisions, on those not received by my officers, and those your Excellency will furnish the two sloops chartered on account of yours to transport the stores; and on this last article it was that we had our accordance. This I have stated in explanation of that part of your letter of yesterday that I have cited here.

I have made the communication, to which the note I have the honor of answering has reference, respecting the archives, and in the same manner that your Excellency has been pleased to express in its two last paragraphs. As early as possible, I will transmit your Excellency the documents to be executed by the captains of the vessels that go under convoy, as requested by James Ramage, Esq., as it is my intention to deliver your Excellency possession of the territory on the 10th of this month. You will be pleased to arrange for the coming forward, to-morrow, of the detachments that are to receive Matanzas and the look-out house, to get the necessary orders, and pass to the occupancy of these said posts.

I remain yours, &c. God preserve you many years.

JOSE COPPINGER.

By order of his Excellency:

GEO. I. F. CLARKE.

No. 31.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, July 8, 1821.

SIR: Your letter, bearing date the 6th instant, with the documents therein referred to, I had the honor to receive yesterday. The gentleman appointed to receive the provisions by your Excellency has presented himself, and the commissary of the United States has been furnished with the necessary orders to make the delivery. Your Excellency has not understood my expression about the *supplies required by you*; it had allusion only to the provisions which your estimate would call for to subsist the troops to the Havana. Lieutenant Wells has been ordered to receive the look-out house, and Lieutenant Davidson the works at Matanzas, and they are required to present themselves to your Excellency for this purpose. Your last note, relating to the detention of the American schooner Stamper, in consequence of her having slaves on board, was received yesterday, just as I

had concluded a letter on that subject to the commanding officer of the Porpoise. I am happy to find that he has thought proper to release the vessel, under existing circumstances, as there was evidently no intention of fraud in bringing those servants, and the difficulty arose entirely from the ignorance of the law of 1818 governing the shipment of slaves.

I have the honor to be, with esteem, your Excellency's most obedient servant,

ROBERT BUTLER.

His Ex'cy JOSE COPPINGER.

No. 32.

Governor Coppinger to Colonel Butler.

ST. AUGUSTINE, July 8, 1821.

Your Excellency will receive, herewith, the document executed by the captains of the vessels freighted by me, and requesting convoy of the United States vessel of war. This instrument is according to our understanding on this subject, and I hope you will be pleased to pass the information to James Ramage, Esq., commander of the convoy. I have made all the arrangements in order to verify the exchange of flags on the forenoon of the 10th instant, and to that effect my troops will embark to-morrow, leaving only the guards of the forts, parade, and magazine, which will be relieved by yours in the time, form, and number, we have agreed on.

Permit me to request that the provisions for the voyage may be delivered to the commissary I have appointed, to-day, if possible. I reiterate to your Excellency my particular consideration and respect.

God preserve your Excellency many years.

JOSE COPPINGER.

His Ex'cy ROBERT BUTLER.

No. 33.

Colonel Butler to Governor Coppinger.

ST. AUGUSTINE, July 9, 1821.

SIR: I have the pleasure to acknowledge the receipt of your Excellency's letter of yesterday. The sentiments therein expressed have met with that attention which a corresponding zeal dictates. I had communicated to the officer commanding the troops to organize his guards for the relief of yours, to correspond as nearly as the customs of our service approach to your organization. Captain Ramage has received due notice, and I had given an early order for turning over the provisions. Your Excellency will now permit me to tender you my congratulations at the prospect of the happy conclusion of our respective duties which to-morrow will afford us, in executing finally the important document of interchange of authority, and to assure you that I shall ever bear in mind the friendly manifestations you have been pleased to make me, since the commencement of our intercourse; and renew to you the expressions of my great respect and personal consideration.

ROBERT BUTLER.

His Ex'cy DON JOSE COPPINGER,

Governor and Commissioner.

No. 34.

Memorandum of the manner of occupying the Fortress of St. Mark, at St. Augustine.

ST. AUGUSTINE, July 9, 1821.

The Spanish troops (excepting the detachment left in the fort) to be embarked on Monday, the 9th instant, ready to cross the bar on the following day.

There will be a salute fired by the fort on Tuesday morning, on hoisting the Spanish flag. During the disembarkation of the American troops, the flag of the United States will be hoisted along with the Spanish flag, when the fort will again fire a salute. The American officer who delivers the flag to remain in the fort until its delivery. When the American troops are formed near the fort, the Spanish flag will be withdrawn under a salute; the guards will then be relieved, and the troops of Spain will march out, and, on passing the former, they will mutually salute; when the American troops will be marched into and occupy the fortress.

ROBERT BUTLER,
United States Commissioner.

Approved:

JOSE COPPINGER.

No. 35.

ST. AUGUSTINE, EAST FLORIDA,
July 13, 1821.

The foregoing are copies of the correspondence in my possession, which passed between the Spanish Commissioner and myself, having relation to the reception and occupancy of East Florida, numbering from 1 to 34, inclusive.

ROBERT BUTLER,
United States Commissioner.

No. 36.

Act of Cession.

In the place of St. Augustine, and on the tenth day of July, eighteen hundred and twenty-one, Don Jose Coppinger, colonel of the national armies, and commissioner appointed by his Excellency the Captain General of the island of Cuba to make a formal delivery of this said place and province of East Florida to the Government of the United States of America, by virtue of the treaty of cession concluded at Washington on the twenty-second of February, eighteen hundred and nineteen, and the royal schedule of delivery of the twenty-fourth of October, of the last year, annexed to the documents mentioned in the certificate, that form a heading to the instruments in testimony thereof; and the adjutant general of the southern division of said States, Colonel Don Robert Butler, duly authorized by the aforesaid Government to receive the same. We having had several conferences, in order to carry into effect our respective commissions, as will appear by our official communications, and having received by the latter the documents, inventories, and plans appertaining to the property and sovereignty of the Spanish

nation, held in the province, and in its adjacent islands depending thereon, with the sites, public squares, vacant lands, public edifices, fortifications, and other works, not being private property, and the same having been preceded by the arrangements and formalities that, for the greater solemnity of this important act, they have judged proper: there has been verified, at four o'clock of the evening of this day, the complete and personal delivery of the fortifications, and all else of this aforesaid province, to the commissioner, officers, and troops of the United States; and, in consequence thereof, have embarked for the Havana the military and civil officers and Spanish troops, in the American transports provided for this purpose, the Spanish authorities having this moment ceased the exercise of their functions, and those appointed by the American Government having begun theirs; duly noting that we have transmitted to our Governments the doubts occurring whether the artillery ought to be comprehended in the fortifications, and if the public archives relating to private property ought to remain, and be delivered to the American Government, by virtue of the cession; and that there remain in the fortifications, until the aforesaid resolution is made, the artillery, munitions, and implements, specified in a particular inventory; awaiting, on these points, and the others appearing in question in our correspondence, the superior decision of our respective Governments, and which is to have, whatever may be the result, the most religious compliance at any time it may arrive, and in which the possession that at present appears given shall not serve as an obstacle.

In testimony of which, and that this may at all times serve as an expressive and formal receipt in this act, we, the subscribing commissioners, sign four instruments of this same tenor, in the English and Spanish languages, at the above mentioned place, and said day, month, and year.

ROBERT BUTLER,
JOSE COPPINGER.

[Documents communicated with the President's Message of 28th January, 1822.]

Papers received from W. G. D. Worthington, Secretary of East Florida.

I. Mr. Worthington to the Secretary of State, October 9, 1821, (extract.)

Enclosures, marked—

No. 1. Mr. Worthington to Mr. Entralgo, August 29, 1821.

No. 2. Mr. Entralgo to Mr. Worthington, September 5, 1821.

No. 3. Mr. Worthington to Mr. Entralgo, September 15, 1821.

No. 4. Commission to Bell, Forbes, and Law, October 1, 1821.

5. Report of commissioners, October 4, 1821.

6. Appointment of secretaries, October 3, 1821.

II. Mr. Worthington to the Secretary of State, December 11, 1821, (extract.)

Enclosures, marked—

Transactions in Florida—General Jackson.

No. 9. Instructions to secretaries.

No. 10. Report of commissioners, November 5, 1821.

No. 11. Worthington to commissioners, November 7, 1821.

1.

Extract of a letter from Mr. Worthington, Secretary and acting Governor of East Florida, to the Secretary of State, dated

ST. AUGUSTINE, October 9, 1821.

I enclose you an account of my proceedings in the case of the archives and documents which I have seized here. The separation of the papers is not yet accomplished. I must confess I regarded the Spanish officers remaining here more as a matter of speculative intrigue and espionage than any thing else. Since this last blow, the ex-Governor, whom I look upon as no better than the general run of Spanish provincial Governors, has taken his departure, and I suppose many discontented Spaniards will follow his example. He and myself had a little dispute about a man of the name of Ugarte, the particulars of which I will send on, lest the affair should be misrepresented, for I am conscious of being correct in the procedure.

No. 1.

Mr. Worthington to Mr. Entralgo.

ST. AUGUSTINE, August 29, 1821.

SIR: Having, on my arrival here, understood that you had exercised the office of alcalde and notary, and that a large portion of the public archives and private records of this province were under your safe keeping, I immediately endeavored to find out in what state this subject had been placed by our Commissioner, Colonel Butler, on the cession of East Florida.

It seems that the subject had been referred by him and the ex-Governor, Colonel Coppinger, to the decision of the United States Government, at Washington, and the Captain General of the island of Cuba.

Whether this disposition by those two officers would be deemed a sufficient justification for me to consider this important matter out of my cognizance, until I should be specifically instructed on it, would be a question of not much consequence, if no inconvenience in the mean time was suffered by the delay. But, as it is considered that much inconvenience does grow out of the present situation of the archives and records, placed as they are, I deem it my duty, as legally authorized to exercise the functions of the late Spanish Governor of East Florida, to request that all the archives, records, and documents, (within your control or knowledge,) by virtue of the treaty between the United States and Spain ceding these provinces, and according to the customs and usages of civilized nations, may, in good faith and perfect amity, be passed over from the officers of Spain to the proper civil officer of the United States.

On the receipt of your letter of the 22d, I was of

opinion that your peculiar situation would render it necessary to appoint some person to the place of alcalde; and, on the 28th instant, I received a letter from Governor Jackson, at Pensacola, stating that the Spanish subjects had declined taking the oaths of office to the United States, fearing that would operate as a relinquishment of their rights as Spanish subjects, and that he had appointed Judge Brackenridge alcalde there, who had received the archives. Not doubting from your letter that you had taken the same ground, I appointed Edmund Law, Esq., as alcalde and notary; he is expected here every hour. In the mean time, my private secretary will take charge, in my name, of all the archives and documents which ought to pass over with this province, and will sign a proper receipt therefor.

You mentioned you had a claim on those documents. I presume nothing can be clearer than that you must look to the Spanish Government for indemnification. But if the United States are liable to pay you, the transferring by you of the archives and documents to the proper person cannot impair your claim; so that, taking the subject in every point of view, I cannot see how any of the public archives or documents could have been delayed to be given up. If I had been appointed to accept the cession, I should have declined taking the territory without the archives, documents, &c.

As the ex-Governor, Colonel Coppinger, though still in this city, may not consider himself as holding any of the archives and public documents, so as to be addressed officially, and as this letter is intended to embrace and refer to all the archives and public documents of every kind which are yet undelivered and may remain in the hands of any of the Spanish officers, I must request you, as late an officer under him, to communicate this to him *in extenso*, as it is presumed that both of the Governments, and their officers, are inclined to give every facility to the officers of each other in their power, regarding matter of substance rather than etiquette or matter of form.

Very respectfully,

W. G. D. WORTHINGTON,

Sec'y and acting Gov. of E. F.

No. 2.

Mr. Entralgo to Mr. Worthington.

ST. AUGUSTINE, Sept. 5, 1821.

SIR: It is an incontrovertible axiom of justice that, while any affair is pending before the cognizance and for the decision of a supreme tribunal, it ought not to be innovated upon; as a contrary course would be violent, improper, null, and of no effect. Under this idea, and considering what was expressed in your official note of the 29th of August last, which I received yesterday evening at 6 o'clock, wherein you appear to be aware that the doubts arising between the commissioners, Colonels Jose Coppinger and Robert Butler, respecting the delivery of the archives under my charge, have been referred to the Government of the United States, at Washington, and to his Excellency

the Captain General of the island of Cuba; I do not consider it in the power of any subaltern authority to deprive me of the possession of the said archives, particularly as I have no idea of carrying away or disposing of them during the deliberation of the supreme authorities; and as their remaining here cannot occasion any prejudice to the public, who are more interested in their preservation than the Government; and if the parties require copies, I am ready to certify them, on payment of my proper fees.

The precedent which you point out to me, of the receipt of the public archives by the Government of Pensacola, cannot be a rule that the same should be done here, because the parallel circumstances do not apply.

In Pensacola, the office had no head, nor was there any notary public. Here, I have received from Government public documents and registers, which archives and protocols I bought at public sale; consequently, I am the legal head of the office, and nothing can deprive me of the use and benefit thereof, until I have been first satisfactorily indemnified, because they are private property, which have no connexion with the archives and documents directly relating to the property and sovereignty of this province; which genuine and literal words, stated in the second article of the treaty of amity concluded at Washington on the 22d of February, 1819, must guide any one wishing to ascertain the facts.

I trust, sir, that, from your well known judgment and deliberate consideration, and having in view what I have thus laid before you, you will be pleased to suspend all proceedings tending to deprive me of my property, until the decision of the supreme authorities, to whose cognizance have also been referred the representations which I have more extensively made upon this head, and until the receipt of the necessary papers containing their decision.

With every respect, &c.

JUAN DE ENTRALGO.

No. 3.

Mr. Worthington to Mr. Entralgo.

ST. AUGUSTINE, September 15, 1821.

SIR: I have thus long delayed noticing your letter of the 5th instant, under a hope that, ere this, a definitive arrangement might have closed the controversy concerning the office contemplated in General Jackson's 4th ordinance, section 8th, which has been held by you under the Spanish Government, and to which Mr. Edmund Law has been appointed, on the 28th ultimo, under a commission from General Jackson, acting as Governor of the Floridas, and with the powers of the Captain General of the island of Cuba. My letter of the 29th ultimo informed you of that fact, and I introduced Mr. Law as that officer, personally, to you, I think, on the 7th instant. You still not only retain the papers of that office, but exercise the functions and receive the fees you were accustomed to do under the Spanish Government, and this, too, after this territory has ceased to belong

to the King of Spain; after it is organized under the sovereignty of the United States, and has become their property, where no person holds an office unless having first taken an oath to support the Constitution of the United States; and after (in your letter of the 22d ultimo) you had declined taking that oath; and after your knowing, both by letter from me, and verbally, that Mr. Law is the present person who fills that office, and, of course, you must, to every official purpose, be *functus officio* since his appointment. In your letter of the 5th to me, you set out with stating what you call an incontrovertible axiom of right, (*axioma inconcusso de derecho*), which, though it is an abstract opinion, I think unsound, even as a general rule, much less as being conclusive on the point in controversy. I look upon the commissioners, either to cede or receive the province of East Florida, not of higher authority than myself, appointed by the President as the secretary of the province, and by General Jackson, exercising the powers of the Captain General of the island of Cuba, vesting in me the powers of the late Spanish Governor of this province of East Florida. The commissioners, I presume, were neither appointed by the President nor by the King; so that, to support your "*axioma inconcusso*," you should have shown that, for the reference to bind absolutely the Governor of this province, it was properly made by an authority higher than his. At most, the commissioners and the Governor, even *quoad* that particular subject, are coequal, any matter of expediency growing out of it, affecting the welfare and happiness of the province, passes under the cognizance of the Governor.

Your expressions "*violento, vicioso*," &c., were not warranted, either by my acts or writings, respecting you or the office, nor did I expect such from you; for, to do them justice, I have always esteemed politeness as a trait in the Spanish nation. But epithets of this sort are what I am neither in my public nor private character in the habit of receiving. You will therefore be pleased, if it be necessary to say any thing further to me, to dispense with that kind of language.

I, therefore, on the first point, (the matter of reference of the commissioners,) come to this conclusion: that, acting as the Governor of this province, whenever I deem it necessary for the good and interest of the people of this territory to make any order respecting the archives, documents, &c., even pending the reference, I have the power to do so; and am only responsible for that, as well as every other official act, to the President, the Governor of the Floridas, and the American people. Respect and delicacy towards the commissioners would make me not rashly or imprudently, I trust, interfere; but, should I feel it my duty, I will risk all responsibility.

Now, sir, as to the right of your retaining what you say you received from the Government—"public documents and registers, which archives and protocols," you say, you bought at public sale; that they are private property, cannot be taken away from you without your being first satisfactorily indemnified.

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I have no hesitation in saying that, according to the law of nations, and under the usages and customs of nations in their changes of property and sovereignty, it is a necessary incident to that sovereignty that the archives and documents in a country, which (though you may have bought the usufruct) are, in fact, the property of the community, must pass to the Government, to whom the sovereignty and property of the conquered or ceded territory passes. The second article says positively what shall pass—"archives and documents which relate directly to the property and sovereignty of the ceded provinces." It is not to be inferred that the intention of the parties who made the treaty was thereby to exclude all of the archives and documents which belong incidentally to that property and sovereignty, and which, according to the usages and customs of nations, as belonging to the people of the ceded territory, pass with it. The little trite legal maxim, *expressio unius est exclusio alterius*, cannot govern in construing compacts between nations, which are to be interpreted according to the broad and liberal rules of national law, and the just principles of natural justice.

I understand the archives and documents you hold are, for instance, the original grants for lands, &c., deeds from one individual to another, the original last wills and testaments of the inhabitants of this province, &c.; that they were lodged in your office by the owners of them, for your trouble in receiving and filing or recording which you received the legal fees, and gave copies to persons who required them, and received your charge for that service; that in the office you retained the originals; that, on the decease of your predecessor, the situation or the privilege which he held was, for the benefit of his family, set up to public sale; that you gave about \$600 for it; that you have held it eight or nine years, and it is said to have yielded you from about \$15,000 to \$20,000, at the least, in that time; that now you decline giving it up, unless you are paid about \$3,000 for it. If this statement be incorrect, I will, with great pleasure, on being truly informed, alter it to suit the real state of the facts. I have had it from persons who might be supposed to know, and on whose information and veracity I have great reliance.

Saying nothing against a Government setting up an office of profit, high trust, and confidence, of this kind, to public auction, (because independent nations have a right to manage their internal affairs, generally, in their own way,) and looking on your purchase of it perfectly fair and justifiable, I should think that the nation which first sells it to you, and then sells it from you, must be the one to indemnify you. For every person, either civil or military, who may have purchased a place or commission from a Government selling a province, which becomes extinguished or superseded by the administration of the Government purchasing, might, under this rule, claim an indemnity. The doctrine, I think, in the general, too monstrous for a moment to be tolerated, and I think your claim in the particular cannot be supported; because I look on those archives and documents

not as your property, but as originals belonging to the community—to the individuals who lodged them with you, having paid you for the filing and recording, also for your certified copies; so that you took the office or the privilege subject to the chance of its being transferred by Spain to the United States; and, I suspect, the uncertainty and probable shortness when that event might take place was the cause of your purchasing it so low; therefore, not only the law, but the equity is against you.

These are my principal reasons why the archives and public documents should not remain in the hands of an officer of the nation who has sold. He is not like one of its own citizens, entirely amenable to the purchasing Government; indeed, he may be hostile to it. And although, for myself, I feel perfectly safe in confiding in your honor and integrity, while the archives and documents remain with you, yet, if this case of yours is to become a precedent in other negotiations of this kind, archives and documents might be withheld in the hands of public officers who might destroy, alter, or mutilate them; for instance, might falsify or antedate grants of lands, &c.

Another reason: on seeing the fees of office which have been charged under the Spanish Government, the United States Government might wish to increase or diminish them, so as to suit the state of things.

In less than twenty years the United States have purchased the whole of Louisiana, Florida, &c. His Britannic Majesty may, in less than that time, wish to sell the Canadas; or His Catholic Majesty, Cuba or Texas; or the United States may, before that time, possibly, retrocede some of its possessions to these Powers. I wish, therefore, whether those events ever occur or not, to enter this now as my solemn protest against the present case being considered as an acquiescence in the right of property of the archives and documents being retained by you, or your still receiving their usufruct, unless you had been specially appointed by our Government, or were still holding it under the construction of General Jackson's proclamation of the 1st of July. But this has been superseded by the appointment of Mr. Law; so that, on a retrocession, I should hold up my hand as much against an American holding over an office in this way as against an Englishman or Spaniard; for, although I have as high confidence in the integrity of an Englishman as any one, yet I would not afford a precedent of this kind.

The history of Lord Verulam, the high chancellor of England, shows that no rank nor talents can secure a man against malversation in office; which, if it happened to one whom Mr. Pope has called "the wisest, brightest, meanest of mankind," it is only discreet to avoid placing any one in the way of temptation. Having stated that the King of Spain, under the treaty of Washington, as necessarily incidental to the property and sovereignty of the Floridas, by the spirit of the treaty, under the usages and customs of nations, notwithstanding the apparent specification in the second article, has passed over all archives and documents which

are common property to the people of these provinces, and that those in your office are of that character, I will now show you that, by the law of nations, he had a right to do so.

It would be useless to make a parade of learning, by referring to a large list of writers who are uniform in this doctrine. Vattel happens to be on my desk. In his treatise on the Law of Nations, and applied to the conduct of nations and sovereigns, in book 1, chap. 21, sect. 262, he says: "That it is necessary that nations should treat and transact their affairs with validity; without which they could have no method of terminating them, and of placing themselves in a state of tranquillity; whence it follows that, when a nation has ceded any part of its property to another, the cession ought to be held as valid and irrevocable, as it is done in virtue of the notion of property. This principle cannot be shaken by any fundamental law, by means of which a nation might pretend to deprive itself of the power of alienating what belongs to itself; for this would be to forbid all contracts with other nations, or to pretend to deceive them. A nation, with such a law, ought never to treat of its property; if it is obliged to it by necessity, or determined to do it for its own advantage, it must renounce its fundamental law. It is seldom disputed that an entire nation may alienate what belongs to itself; but it is asked if its conductor, if its sovereign, has this power? The question may be determined by the fundamental laws, if the laws say nothing directly on this subject. This will be explained in our second principle.

"If the nation has conferred the full sovereignty on its conductor; if it has committed the care of it to him, and has, without reserve, given him the right of treating and contracting with other States, it is considered as having invested him with all the powers necessary to make a valid contract. The prince is then the organ of the nation; what he does, is reputed done by itself; and, although he is not the proprietor of the public property, his alienations are valid, as being duly authorized."

Now, sir, even if this peculiar custom of Spain, the considering this office that you hold private property, were a fundamental law of the kingdom, I conceive that the transfer by the sovereign, under this construction of the law of nations, would pass over to the United States, under the "notion of property," the archives and documents in it being of common use to, and the original property of, the inhabitants of the territory; unless, in the treaty, special mention had been made of them, and they had been excepted. If these archives and documents would have passed, under the custom of nations; if the words "which relate directly" had been omitted—the introduction of those words cannot alter the great rules of right and construction which exist amongst civilized, high-minded, and just nations, in the exposition of their contracts; otherwise, those words must be regarded as a matter of catch and legal quibble, fit for cunning and litigious individuals, and cannot be imputed to the Spanish sovereign, or to the Chevalier

de Onis, who drew it up. Those words were to specify, pointedly, certain archives and documents, without excluding or abridging the right to others which may and ought to belong to the purchasing nation, as of primary or secondary importance to the citizens who are incorporated under the treaty. Even in our ordinary grants, deeds, muniments, &c. of title, &c. pass to the grantee, and the contract is construed most strictly against the grantor; this rule equally applies to nations. Admit, for a moment, that the archives and documents, or the office, is your private property; that you can do what you choose with it—and you may take it to the Havana, or the Pyrenees, and the citizens of this province would have to go there to investigate their titles, &c., and have foreign fees, charges, &c., entailed on them and their posterity. This is what neither the King of Spain nor this treaty could have intended. It would be a transfer surrounded with absurdity, and deficient in good faith, which I am not disposed to impute to His Catholic Majesty or his Ministers. On the whole, as I told you on my first interview, I do not blame you, if you think yourself fully entitled to remuneration, to get it; and I repeat, your own Government is, in my mind, the party you have to look to. What, I am sorry to say, I must differ with you in, is, that you should not have given up the archives and documents to the officer who has been appointed under the United States Government. Your claim neither against them nor Spain could be weakened in the least by that act. Indeed, I think it would have been placed in a higher and more favorable light; because you cannot for a moment think that either of those nations, after the archives passed over from you, would be less prompt and just towards you than if you held them fast in your own hands. Pass them over, make out your claim against either or both Governments, and I am certain justice will be done in the premises. If you are entitled to any thing, you will get it; if not, I presume you will not wish it. I assure you, so little doubt have I had on this subject, that, had you not been fairly in office, and the reference of the commissioners calling for some delay, as a matter of respect to them, and your being an isolated subject, in a manner completely within the power of our Government—therefore, any act of the Government against an individual might seem authoritative and domineering, perhaps unjust—I should have sent the officer, with a competent power, to have taken peaceable possession of those archives, documents, &c. Any thing which may clearly be your private property shall always be most religiously respected. As it is, I wish you to consider well what course you will take. I do not wish to prejudice your claim; indeed, any thing I can fairly do for you I shall, as the chief executive officer of this province, consider myself bound to do. But I shall deem it useless again to write to you on this matter. As you have not mentioned in yours of the 5th that you laid my letter, as requested, *in extenso*, before the ex-Governor, Colonel Coppinger, I presume you did not, and it is useless to repeat that request.

Mr. Law, who hands you this, will receive your determination.

Yours, with all proper respect, &c.

W. G. D. WORTHINGTON,
Sec'y and acting Governor of E. Florida.

No. 4.

Commission to Messrs. Bell, Forbes, and Law.

ST. AUGUSTINE, October 1, 1821.

GENTLEMEN: I do myself the pleasure of appointing you, hereby, to the execution of the following delicate and important commission. You will, without delay, demand and receive from all and every of the subjects of the King of Spain, or other persons who are now here, all the remaining archives and documents which ought to have been transferred to the United States on the cession of this province, and which may be retained under any pretext whatever.

It is supposed that all the papers which shall properly come under your cognizance may be had on application to Colonel Jose Coppinger, late commissioner and Governor of this province, and his secretary, Mr. Aguilar; also, to Mr. Juan de Entralgo, late notary, register, &c.

To put you in full possession of this subject, I enclose you papers marked 1, 2, 3, 4, &c.

It is supposed there will be no refusal to deliver to you all the archives and documents contemplated by this order. Should there be, you are hereby authorized to summon sufficient force to your aid, by calling on the high sheriff, Captain Hanham, with the *posse comitatus*, or, if absolutely necessary, and in your opinion preferable, by requesting Colonel Eustis to send you a competent detachment from Fort St. Mark's.

You will keep and render a particular account of your proceedings, and I name to you Mr. John Bird and Mr. Anselm Gay as clerks to this commission. You are hereby further empowered to send for persons, papers, and proofs, to ascertain any facts you may deem necessary respecting said archives and documents, and to take declarations and affidavits on oath, as may be proper on this subject—

1. Of the archives and documents which were here at the time of the cession.

2. Those which may have been concealed or sent away.

3. Those which now are delivered over; and all such other and further matters and things touching the present service as in your sound discretion you may see fit.

At the same time, I wish this duty to be performed with promptness and effect; I wish every respect becoming the American character, I trust so truly famed for its sound regard both for public and private rights, and its pure love of justice, to be shown, in particular, to the late officers and subjects of His Catholic Majesty; and it is confiding so fully in your high official and private reputations, that I select you for this trust, and leave its execution so fully to your judgment and discretion.

Captain Bell having been here before and at the

cession, and having exercised the functions of acting Governor of this province before my arrival, will be considered as president of this commission; Colonel Forbes, the marshal of the United States for the Floridas, and late commissioner to the Havana to receive those archives and documents, the second named; and Mr. Law, the present alcalde, will receive the archives and documents, agreeably to General Jackson's ordinance on the subject.

The artillery, munitions, and implements, mentioned in the *proces verbal* of the 10th July last, by Colonels Coppinger and Butler, are to remain as they are; but none of the archives and documents which you shall deem ought to have been delivered over with the province are to be further delayed.

You will, I am confident, be correct, cautious, and decided in the premises.

I have the honor to be, very respectfully, yours, &c.,

W. G. D. WORTHINGTON,

Sec'y and acting Governor of E. F.

J. R. BELL, J. G. FORBES, and E. LAW, Esqs.

No. 5.

Report of the Commissioners.

ST. AUGUSTINE, October 4, 1821.

SIR: The undersigned commissioners, appointed by your letter bearing date the 1st of October, 1821, empowering them to demand of Colonel Jose Coppinger, late commissioner on the part of His Catholic Majesty to deliver the possession of East Florida to the commissioner on the part of the United States, and the archives and documents relating to the property and sovereignty of the province, and to demand of Juan Blas de Entralgo, late notary, a register, &c. of this province, the archives and records in his possession, having executed the commission intrusted to them, beg leave to submit the following report of their proceedings:

That, in pursuance of your instructions, the undersigned proceeded to the office of Don Juan B. de Entralgo, at 4 o'clock of yesterday: having entered, and found the son of Don Entralgo alone in the office, a messenger was despatched for him; on his arrival, a formal demand was made for all the archives and records in his possession, relative to the property and sovereignty of the province. To this demand Don Entralgo replied that the papers were in his possession, and must there remain, until the question respecting them, submitted to the two Governments, should be determined, as agreed upon between Colonel Coppinger and Colonel Butler. And upon the undersigned informing Mr. Entralgo that their instruction was to take immediate possession of the archives and records in his possession, he replied that such an act would be considered by him as forcible, and against his consent. The undersigned then proceeded to take possession of the papers found in his office, excepting such as related to his private concerns, and, having put them in five boxes, requested Mr. Entralgo to put his seal upon them;

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which offer he declined. The boxes were then deposited in the public store for safe keeping.

In the mean time, one of the undersigned, accompanied by one of the secretaries to this commission and the sheriff of St. John's county, proceeded to the house of Colonel Coppinger, and made a similar demand, and received the same answer as given by Don Entralgo. A request was then made that Colonel Coppinger would be present when the papers in his possession should be taken; and was also requested to affix his seal to the boxes, together with one of the undersigned, there to remain until an examination of the papers should take place: both of which propositions were rejected by him. He continued to protest against all the proceedings of the undersigned, and refused to open the door of his office. The undersigned then proceeded, as the only alternative left them, to force open the door. They then took possession of the papers, amounting to six boxes, boxed them up, and deposited them in the public storehouse for safe keeping. In order to insure the safety of the papers, archives, and records, which the undersigned have taken possession of, a guard has been placed in front of the building in which they are deposited. Before closing this report, the undersigned further state, that letters have been addressed by them to Colonel Coppinger and Don Entralgo, offering to receive any communication that they might think proper to make. The former has informed them that he will make such communication, and the latter has replied that he has none to make.

All the papers will remain in the place where they are at present deposited, until the undersigned receive your instructions relative to them.

All which is respectfully submitted.

JOHN R. BELL,
J. G. FORBES,
EDMUND LAW.

W. G. D. WORTHINGTON,
Secretary and acting Governor, &c.

No. 6.

Appointment of Secretaries.

St. AUGUSTINE, October 3, 1821.

GENTLEMEN: I do myself the pleasure to appoint you as secretaries to the commission of the 1st instant, respecting the archives and documents. You will be pleased to attend the commissioners to-morrow morning at nine o'clock, and proceed to act agreeably to their instructions.

In this duty you are selected for your ability and trustworthiness. Yours, respectfully,

W. G. D. WORTHINGTON,

Secretary and acting Governor of East Florida.

Judge FARQUHAR BETHUNE,
Messrs. PATRICK LYNCH, and WM. REYNOLDS.

II.

Extracts of a letter from Mr. Worthington, Secretary and acting Governor of East Florida, to the Secretary of State, dated

St. AUGUSTINE, December 11, 1821.

I now enclose you the balance of the papers in

the case of the archives, &c., as promised in my letter of the 4th instant, marked Nos. 9, 10, and 11.

As I have written officially to yourself and General Jackson on the proceedings had here respecting the archives and documents taken into our possession from the Spanish ex-Governor Colonel Coppinger, and the escribano Mr. Entralgo, it seems to me premature and improper to follow Colonel Coppinger's example, by publishing the correspondence, &c., in the newspapers. However, if it should be deemed necessary and proper, I have not a particle of doubt that our proceedings can be vindicated from every aspersion which he or any one else has attempted to cast on us.

No. 9.

Instructions to Secretaries.

St. AUGUSTINE, October 4, 1821.

GENTLEMEN: In pursuance of the authority vested in you by the letter of appointment from the acting Governor of East Florida, bearing date the 3d instant, you will proceed to the examination of the papers and documents contained in the boxes deposited in the public store-room. The object of this examination is to separate those papers which clearly relate to the property of individual citizens of this province, or of the late Government thereof, from those which have no relation thereto, but are more properly the property of the late Government exclusively. Under the former description of papers and documents, it is deemed that the following are embraced, viz: The royal or other orders, authorizing the Governors of this province to issue grants to individuals for lands, lots, and squares; the evidence of indemnity offered by Great Britain to her subjects who might leave their property in the province, and retire to her territory after the cession to Spain; the proclamation of the Spanish authorities calling on all those individuals to come and dispose of their property, or peaceably occupy it within certain periods, or the same would be confiscated, and the order of confiscation thereafter; the original records of all grants made in the province, either by His Catholic Majesty, the Captain General of Cuba, or the Governor of this province, respectively; the original records relating to all trials and decisions embracing individual property, and the original records relating to the execution of wills and administration of estates; the records of transfers of property by individuals; the archives of the royal treasury, and of the treasurer of the province; the archives relating to the property or rights of the corporate authority of St. Augustine; and, in general, all papers and documents which clearly relate to and may serve to elucidate the rights of individuals, or of the late Government of Spain, and which are omitted to be here enumerated. You will make an inventory of all these papers, and will, in like manner, make an inventory of such papers as are not embraced within the scope of these instructions, which you will deposite in a separate box or boxes, and mark the same. After having executed the commission with which you

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are charged, you will report the result of your proceedings to the commissioners.

JOHN R. BELL,
JAMES G. FORBES,
EDMUND LAW.

To Messrs. BETHUNE, LYNCH,
and REYNOLDS, *Secretaries, &c.*

No. 10.

Messrs. Bell and Forbes to Mr. Worthington, Secretary and acting Governor of East Florida.

St. AUGUSTINE, Nov. 5, 1821.

SIR: The undersigned commissioners, under your letter of appointment, dated the 1st of October, 1821, to take into possession the records and archives then in the hands of Colonel Coppinger and Don Juan B. de Entralgo, late Spanish Governor and escribano, in addition to the partial report of their proceedings, beg leave to submit the following, as a final report of their official conduct, and of the secretaries under them, appointed for the examination and separation of the said archives and records.

On the 5th of October, 1821, Farquhar Bethune, William Reynolds, and Patrick Lynch, Esqrs., the secretaries alluded to above, attended, and were sworn faithfully to discharge the duties of their office. The tenor of the oath, and the other subsequent proceedings thereon, your Excellency will find recorded in a book used for that purpose, and which accompanies this communication.

The undersigned continued to meet from day to day, for the completion of their commission, until the 23d of October, 1821, when the commission would have adjourned, having been informed by the secretaries that they had finished the examination, and would report thereon as soon as practicable; but a more ample examination of box No. 3 having been deemed expedient, the undersigned attended with the secretaries until the same was examined.

The undersigned have this day received from the secretaries above named a report of their proceedings, accompanied by registers, marked Nos. 2 and 3; which report and registers will be submitted to your Excellency's inspection. By which report it appears that said secretaries have discharged the commission with which they were intrusted; and the register will show your Excellency what papers are retained as coming within the purview of your instructions, as also those papers that are to be returned to the Spanish Government.

JOHN R. BELL,
J. G. FORBES.

W. G. D. WORTHINGTON,
Secretary, &c.

No. 11.

Mr. Worthington to the Commissioners.

St. AUGUSTINE, Nov. 7, 1821.

GENTLEMEN: I had the honor to receive your additional report of the 5th instant, on yesterday evening, on the subject of the records and archives;

and I felicitate you on your conclusion of the difficult and laborious duties which it was deemed necessary to assign to you, which you so cheerfully undertook, and so faithfully have discharged. I have been an eyewitness of the open and assiduous manner in which you conducted the investigation; and I have no doubt, when the voluminous mass which you have transmitted shall be criticised, it will prove to be an honest and able examination.

Without detracting from the other commissioners, I must be permitted to pay a particular compliment to the president, who, during the whole tedious inquiry, while the epidemic raged in the city, with the utmost punctuality presided at the board. I know the various duties of Colonel Forbes, and the sickness of Mr. Law, prevented them giving such full attendance as they otherwise would have done. I am perfectly satisfied with them and the whole board. You will be pleased to present my respects to the secretaries, Messrs. Bethune, Gay, Lynch, and Reynolds, for the faithful discharge of their duties.

And now, gentlemen, I must be permitted to say, notwithstanding the clamor which has been raised, on a similar proceeding, respecting the archives at Pensacola, and even against the affair here, that you have conducted and finished this commission in a manner to challenge the approbation of every disinterested and honest American in this country, and I hope even of every unprejudiced Spaniard, who possesses one spark of true Castilian honor and sincerity. With great respect, &c.

W. G. D. WORTHINGTON,
Sec'y and acting Gov. of East Florida.

To JOHN R. BELL, J. G. FORBES,
and EDMUND LAW, Esqrs.

Letter from G. Walton, Secretary of West Florida, to the Secretary of State.

PENSACOLA, October 29, 1821.

SIR: Presuming that the President would be desirous to be informed of the state of affairs in this province, I have thought it advisable to communicate with the Department direct, not having yet heard of the arrival of the Governor at Nashville, for which place he set out on the 8th instant.

The Department is already fully informed of the disposition made by General Jackson previous to his departure. He was pleased to delegate to me the powers exercised by the former Governor of West Florida, accompanying my commission with a letter of instructions. Since his departure I have been in the exercise of those functions, and shall use my best exertions to justify the confidence of the President and the expectations of General Jackson.

Nothing suggests itself, at present, of sufficient importance to communicate. All things go on well, and the march of the Government is peaceable and undisturbed.

The excitement occasioned by measures deemed necessary by the Governor is subsiding, and, since the departure of the Spanish officers, there seems to be a much greater disposition on the part of the

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Spanish inhabitants to cultivate a friendly feeling. Nothing has been heard of General Jackson since he left Claiborne. By this time I think it probable that he has reached the State of Tennessee.

I have the honor to be, &c.

GEO. WALTON,

Sec'y and acting Gov. of West Florida.

J. Q. ADAMS, *Sec'y of State.*

[The following additional documents, in relation to transactions in the Floridas, were subsequently laid before the House by the Committee on the Judiciary.]

DEPARTMENT OF STATE,

Washington, Dec. 22, 1821.

SIR: I have the honor to enclose, for the information of the committee, agreeably to the request contained in your letter of the 11th instant, the papers, of which a list is subjoined; to which will be added copies of other papers upon the same subject, (the establishment of a government over the Floridas,) as soon as they can be prepared.

I am, &c.

JOHN Q. ADAMS.

JOHN SERGEANT, Esq.,

Chairman Jud. Com., H. R.

General Jackson to the Secretary of State.

PENSACOLA, July 30, 1821.

SIR: I seize the first moment of leisure I have been able to obtain for more than a month to lay before you an account of the commission confided to me in relation to the Floridas, and also the measures adopted for their government until the will of the President be known.

In my letters from Blakely, of the 1st and 7th of May, (duplicates of which, with accompanying documents, have been forwarded,) I informed you of my arrival at that place; of my disappointment in not hearing from the Hornet; of my despatching Messrs. Brackenridge and Bronaugh with a letter to Governor Callava; and of my communication with Montpelier. I had with confidence calculated on the arrival of the Hornet by the 1st of May; and, from a knowledge of the habitual apathy of Spanish functionaries, I thought it advisable, even before the arrival of the Hornet, to announce my commission to the Spanish Governor of West Florida, and, after offering to exhibit the royal order and my commission for receiving the country, to ask information upon certain points which would tend to expedite and facilitate subsequent arrangements. From this letter (which has also been forwarded) it will be seen that he declined to comply with my request; but I am well satisfied that this early step had a favorable operation upon our subsequent transactions. It drew from him a promise that the surrender of the country should not be delayed by him, in case he should be the person commissioned for the purpose; and I think it not improbable that this measure had also some effect with the Captain General of Cuba. I had received intimation, both at New Orleans and at Blakely, that speculations were in contemplation, to accomplish

which great pains would be taken by the parties concerned to delay the surrender of the ceded country; and, since that period, I have heard it frequently expressed as a matter of surprise that no attempt of the kind had been made, at least in this question.

On the return of Messrs. Bronaugh and Brackenridge, I proceeded to Montpelier, having been previously joined by my aid-de-camp, Captain Call. On the 11th I again addressed a letter to the Governor of West Florida, which I despatched by Captain Call, who was instructed to remain at Pensacola until the arrival of the Hornet, (for I still confidently hoped this could not be delayed many days;) and also authorized Captain Call to make any preliminary arrangements with the Governor, which he would be willing to enter into. In my letter to him of the 11th, after expressing my regret at his not considering himself authorized to give the information I had asked, I informed him that orders had been given to provide transportation for six hundred men, with supplies for their voyage; that the same was then ready, and would sail for Pensacola on the first notification of the receipt of the royal order at that place. In doing this, my intention was to deprive him of all excuse on the score of his not having had sufficient time to make his preparations for quitting the country. I had previously informed him of the assurances of the Spanish Minister at Washington that no delay should be experienced in the surrender of the Floridas, and which I now took occasion to repeat. After stating the unpleasant situation in which the American troops were placed in the interior, I proceeded to inform him that two public vessels, the Shields and the Amelia, were then at anchor in Mobile bay, with supplies for Pensacola and St. Mark's, and proposed to make a deposite of the supplies intended for our troops at the former place; and also requested to be informed whether it would meet his wishes to have the troops of Spain brought from St. Mark's to Pensacola, as a preparatory measure to the surrender of the country, so that all the Spanish officers and soldiers might sail together under the same convoy. This was intended to render the evacuation more convenient and agreeable to them. I had begun to entertain serious doubts of the speedy arrival of the Hornet, and thought that, if a preliminary arrangement of this kind could be made, time might be saved. The Governor, in his reply of the 16th, consented to the proposal of making a deposite of the provisions for the American troops, approved of the proposal respecting the transportation of the troops from St. Mark's, but denied that he had any power to make any preliminary arrangement, or do any act connected with the surrender of the country, until he should have received orders from his superiors. The vessel accordingly sailed for Pensacola, and the provisions were placed in deposite at that place. It may be well here to observe, that, at a subsequent period, the Governor thought proper to claim the benefit of the proposal to bring the Spanish troops to this place from St. Mark's, although not assented to when made, and which

was acceded to by me from a wish to deal with him in the most liberal and generous manner, at the same time that I was determined to permit no idle and useless delay.

Nearly two weeks had elapsed after the departure of Captain Call without hearing a word of the *Hornet*. The anxiety which I experienced can be more readily imagined than expressed. Without speaking of my own situation, and that of my family, which are extremely uncomfortable, I began to entertain serious apprehensions that there was no intention to surrender the country before the 23d of August. During this painful state of suspense, many rumors were afloat, and how far well or ill founded it was impossible for me to say. I was utterly unable to conjecture the cause of the delay of Colonel Forbes; it appeared to me that a few days would have sufficed for the transmission of the royal order to the Floridas; and I took it for granted that if any considerable delay was likely to be experienced in procuring the archives, a person could be left to receive them, in order to accomplish the more important object of obtaining immediate possession of the ceded territories. On an attentive examination of the stipulations of the treaty, I was satisfied, in my own mind, that the seventh article, relating to the transportation of the Spanish officers and troops, and the evacuation of the places occupied by them, was a different matter from the surrender of the sovereignty of the country, as stipulated under the second article of the treaty, and for which no specific time was appointed, and therefore to date from the exchange of ratifications. This construction was confirmed by the stipulations on the subject of duties, by which the twelve years privilege granted to Spain was to commence three months after the ratification, and the provision (which, under a construction different from that I have given, would have been entirely unnecessary) that the duties collected by the Spanish custom-house officers, from the time of the exchange of ratifications until the surrender, might be retained. The circumstances attending the treaty, although not appearing on the face of it, I was satisfied ought, in good conscience and in truth, to place the date of its ratification on the part of Spain as far back as October last. These were considerations which I kept in reserve, to be acted on only in case of the most urgent necessity, having set out with a determination to carry the treaty into effect, if possible, in harmony and good will. I was also determined, on the arrival of the royal order, to permit no useless delay, as I conceived that after this the termination of the business was left to Colonel Callava and myself, (our respective Governments having confided it to us,) and I was determined that, on such event, nothing should be wanting on my part.

On the 20th Captain Call returned to Montpelier in company with Mr. Thompson, who brought me the first certain information of the *Hornet*. Mr. Thompson was the bearer of a letter from Colonel Forbes, (to which I refer you,) which, although far from being satisfactory, together with the assurances of Mr. Thompson that the *Hornet*

would probably have sailed in a few days after his departure from Havana, served in some measure to remove the uneasiness I had experienced. I began to entertain a hope that the long expected vessel might at last arrive. In anticipation of this event I addressed a letter to Colonel Gadsden, who had shortly before reached Pensacola, and appointed him a confidential agent to reside at that place, and for the purposes expressed in my letter to him of the 21st of May, to which I refer you. Having occasion for the services of Colonel Gadsden near me, I transferred his powers to Captain Call, and was joined by the former at Montpelier. On the 22d I addressed a letter to Major Fanning, the officer commanding at Fort Gadsden, giving the necessary orders for the taking possession and occupation of St. Mark's; to which I must also refer you, as more fully explanatory of the arrangements made with a view to that operation.

From this period until I addressed you my letter of the 30th of May, I remained at Montpelier, in the same uncertainty, and with unceasing solicitude. Reports reached me that Captain Read of the *Hornet* had fallen a victim to the climate of Havana, and that the greater part of the crew were unfit for duty. My letter of the 9th of June will show the painful anxiety which I felt during this period, not a little heightened by the bad state of my health. I prepared, in the mean time, an express, to be despatched to St. Augustine, with instructions to Colonel Butler, and wrote him the letter under date of the 2d of June, to give him the earliest information of events in this quarter. I was apprehensive that the vessels employed to transport the troops from East Florida would have arrived, and occasioned a heavy demurrage, as the same precautions could not well be taken there as in this quarter, where we were more convenient to the place at which the transports were to be procured.

I had almost given up all hope of the arrival of the *Hornet*, when, at last, I was informed by express that she had arrived at Pensacola on the evening of the 9th of June, after having been detained six weeks in Havana for reasons which to me still remain unaccounted for. A letter from Colonel Forbes was brought by the same express, informing me of his arrival at Pensacola, in company with Don Alba, a commissioner on the part of Spain. I refer you to this letter, and to my reply, dated the 11th. I could not but remark with some surprise that the order of the Captain General was for the delivery of West Florida to Colonel Forbes, as commissioner on the part of the United States; this was owing to a mistake, Colonel Forbes informs me, which, although discovered before the sailing of the *Hornet*, could not be corrected for the want of time. The length of time which elapsed from the date of the order and the sailing of the *Hornet* is a circumstance which, I must confess, I do not clearly understand. It is by no means accounted for by the delay in procuring the archives; all that could be procured were a few extracts from the treaty of 1783, between Spain and Great Britain, and which, I presume, is to be had in any common library. The

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important papers relating to the grants of land in this country, as well as other documents directly relating to the Floridas, must still be the subject of negotiation between the respective Governments. I forbear to make any further remark on this head; but will refer you to my letter of the 11th, sent by express after my former letter had gone, and also to the communications of Colonel Forbes himself.

Without loss of time, I addressed the letter of the 12th to Governor Callava, having previously received his communication of the 10th, brought to me by Captain Call. I expressed my gratification at the promptitude with which he had imparted to me the information he had promised on the arrival of the *Hornet*, and was pleased with his frankness in waiving any advantage of the order being for the surrender of the country to Mr. Forbes. To meet what appeared liberal with equal liberality, I assented to his request that the Spanish troops should be brought from St. Mark's, to be embarked with those at this place. Captain Call, who had been authorized to make the arrangement for the evacuation of St. Mark's, had been met by the difficulty anticipated by you in relation to the construction of the treaty. The Spanish Governor required a receipt for the cannon and munitions of war left at St. Mark's, contending that the former were not included under the term "*fortification*." To this proposal I acceded, according to the terms expressed in my letter of the 12th, in which I urged all the arguments which then suggested themselves to me, to prove the right of the United States under the second article of the treaty. I also brought into view the manner in which the seventh article was expressed, and the liberal construction placed upon it by the President, under a belief that a construction equally liberal would be placed by Spain on the one before mentioned; and finally referred him to Captain Call, to whom I had given, in my letter of the same date, authority to make a provisional arrangement, in case the Governor, after the reasons I had given, should persist in his construction of the treaty: this was, to receipt for the cannon on the forts, on condition that receipts should also be given for the transportation furnished for civil officers, servants, &c., and provisions, not provided for by the express letter of the seventh article; giving it, at the same time, to be distinctly understood, that the United States should, by no act of mine, be considered as abandoning their right to the cannon as part of the appendages of the forts. An inventory of the munitions of war embraced in their claim was to be taken, and the receipt to specify that they had been received with the forts, but claimed by the Spanish commissioner as not included in the cession, and to be held by the American agents, subject to any future disposition which might be made by the respective Governments; the Spanish commissioner to receipt for provisions, transportation of families of officers, civil officers, &c., in the same form; and the Governor was distinctly informed that, in case the Spanish Government insisted upon the delivery of the one, the United States would insist upon pay-

ment for the other. Captain Call was also instructed, in case this proposed arrangement should not prove satisfactory, to refuse transportation for every thing not literally included in the seventh article of the treaty; and at the same time to protest against the dismantling the forts, as an act on the Governor's own responsibility, and as a violation of the second article of the treaty. As an evidence of my desire to settle the business in the most satisfactory and amicable manner, Captain Call was instructed to comply with the Governor's request for transportation of two field-pieces from St. Mark's, and some ordnance stores. In the same letter, I informed the Governor of my intention to move in a few days into the vicinity of Pensacola. I also gave him to understand that the transports deemed necessary had been provided, and might shortly be expected in Pensacola.

On the 16th of June, after an unpleasant journey, on account of the unusual rains which had prevailed for a considerable time, I arrived at the house of Manuel Gonzales, distant fifteen miles from Pensacola, where I intended to await the arrival of the troops, and to remain until I had officially announced to the Governor my entrance into the Floridas for the purpose of receiving possession, as commissioner on the part of the United States. On the day of my arrival at Manuel's, I wrote to the Governor, by Colonel Gadsden, informing him of my arrival at that place, prepared to accomplish the object of my commission. I expressed a wish that a period as early as possible might be concluded on, to our mutual convenience; when we might meet, exhibit our credentials; officially recognise each other, and enter on the duties of our respective commissions. I stated that Colonel Gadsden was authorized by me to take charge of any communications from him, and to concert the arrangements connected with the proposition made. On the same evening I received a long letter, dated on that day, from the Governor, in answer to mine on the subject of the construction of the treaty, with a few lines on the envelope, informing me that, but for his ill state of health, he would have done himself the pleasure of waiting on me in person. My reply, dated the 17th, contains a brief refutation of his reasoning, and an expression of my unwillingness to induce him to depart from the positive instructions which he informed me he had received. I concluded by observing that, when I should have the pleasure of seeing him personally, I should hope to make an arrangement agreeably to the instructions given to Captain Call, and which he had communicated to him, and which will refer the subject of difference to be adjusted by our respective Governments.

The situation of the troops, now encamped near Manuel's, was inconvenient, on account of the distance from their supplies. There were many reasons strongly requiring that the American flag should be hoisted in Pensacola, without delay; American vessels were arriving, and were expected to arrive, which had sailed from ports of the United States under the faith of the expected surrender, and which would be exposed to the payment

of heavy duties, through the means of an arbitrary valuation; there had been a great increase of American population, and which was augmenting every day; and the state of things incident to a country so nearly on the point of being transferred forever to the dominion of another nation may be readily conceived; added to all this the neglect of the police, which I was informed existed in Pensacola, and attention to which is so important to a place that must be indebted to this circumstance, perhaps, more than to any other, for its future growth. Under all these circumstances, I authorized Colonel Gadsden to make the proposition mentioned in his letter of the 18th, in the hope that it might possibly meet the approbation of Governor Callava, but without intending to insist upon it. From the other part of Colonel Gadsden's letter, it will be seen that it was my wish that a time and place might be designated at which we might meet, recognise each other, and enter on the business of our respective commissions. A misapprehension occurred on this subject, which was not explained until the close of our correspondence. Not receiving such a communication as I thought I had a right to expect, and not being visited by the Governor, or any of his officers, I concluded to remain with my family where I was; and, as the Governor had officially recognised me as commissioner, I resolved to carry on the preparatory negotiation by means of my staff.

I received another letter from the Governor on the 19th, together with his letter to Colonel Gadsden. I refer you to my letter of the day following, in which I enter into a full and explicit statement of what I conceived to have been misunderstood. In the course of that communication, after enumerating some of the more urgent reasons on my part for obtaining a speedy delivery of West Florida, I requested him to state in how many days after the arrival of the troops from St. Mark's he would be prepared to evacuate the Floridas. I mentioned the circumstance of one of the transports, the Anna Maria, having arrived some time before; the Cora having, unfortunately, been cast away near the Balize, but that prompt measures had been taken to remedy the misfortune. In the same communication I informed the Governor of the appointment of Major Stanton to discharge the duties attendant on the transportation of the Spanish troops, and to concert the necessary measures for their comfort. In the concluding observations of my letter, I regretted the existing difference respecting the construction of any articles of the treaty, the stipulations of which we were, in part, commissioned to execute. I received on the 22d the Governor's letter of that date, together with the one of the 20th, enclosing several propositions relating to preliminary arrangements for the surrender of the country and the fortifications of Barancas. In the letter of the 22d, he informed me that Don Alba was merely the bearer of despatches from the Captain General, and clothed with no official character in relation to the Floridas, and declared himself to be commissioner. He waived the exhibition of my commission for the present, but

requested an attested copy; which was accordingly sent. In reply to my request of appointing a day, after the arrival of the troops from St. Mark's for the delivery of West Florida, he stated that, as soon as the garrison of Appalache should reach Pensacola, and the transports should be ready, he considered four, or six days at the utmost, as sufficient for the delivery of it, and the embarkation of the equipage, troops, and other individuals; whence he declared that I might now consider the time solicited by me to be fixed. The subject of the artillery was again touched upon in his letter, when I had flattered myself with a hope that it had been well understood and settled. The artillery and its appendages, he informed me, could not be submitted to any kind of compromise; such, at least, was the meaning given to the Spanish expressions—*no puedo sugartarlo a ninguna cosa de compromiso*. Not a little surprised at what appeared to me little short of equivocation, on the receipt of it I experienced no small degree of mortification. I called upon Captain Call for his report whether he had not communicated to Governor Callava my instructions given him in relation to this subject; and, immediately upon receiving his report, (to which I beg to refer you,) I addressed to Governor Callava my communication of the 23d, in which I deemed it necessary to recapitulate what I had said on the subject of the construction of the second and seventh articles of the treaty; and in order to prevent any future misunderstanding, I reduced the subject to these two distinct propositions:

1st. That an inventory of the cannon, munitions of war, &c., belonging to the fortifications ceded, should be taken, and signed by the proper officers authorized to do so, with a remark that said cannon, ordnance, &c., were claimed by him, but left in my possession, subject to any future dispositions which might be made of them by our respective Governments.

2d. That an inventory of the transportation of families of officers and servants, and provisions placed on board of the transports for the supply of the troops on their voyage, should be made out and certified by him as furnished by me.

I observed that these were the propositions to which I had supposed he had assented, and that they corresponded with the instructions given to Captain Call. I had now hoped the subject was understood and at rest. In the Governor's reply of the 25th, he acknowledges himself to be well acquainted with the tenor of the particulars which it embraces, and particularly with that part which relates to the artillery; he declares that no mistake could have occurred in the account given by him to the Minister of His Catholic Majesty at Washington; and in the concluding part of his letter he observes, that no objection or remark offers itself to giving me a certificate setting forth the number of persons transported, and of the provisions supplied them for their voyage.

A short correspondence, to which I refer you, had, at the same time, taken place respecting the transmission to St. Augustine of the necessary orders for the delivery of that place. I refer you,

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also, to my letter to Colonel Forbes, and his reply. The length to which this communication has already been unavoidably drawn out precludes me from making any remark at present on this business. This circumstance, however added to the necessity of despatching Colonel Gadsden to St. Augustine; and preparatory to this, I prepared the letter to Colonel Butler, the commission to Mr. Worthington, and letter to that gentleman, with other documents referred to, and of which I gave an account in my letter to you of the 29th of June. In that letter you will perceive my understanding respecting the provisional arrangement, on the subject of the disputed articles of the treaty, clearly and fully expressed. I refer you to the correspondence between the Governor and myself previous to that date, and after the 25th. This tedious length of correspondence in settling so many matters of detail, as well as of greater importance, was what I had not expected, and, in the then state of my health, was extremely fatiguing. In my letter of the 26th, I expressed my satisfaction that we had not misunderstood each other on the subject of the artillery, &c. &c. By good fortune, when much at a loss for a mode of conveyance for Colonel Gadsden, the extraordinary rains having rendered the passage across the country almost impracticable, the United States schooner "Revenge" entered this port, and was instantly put in requisition for the service above mentioned. Mr. Forbes and Don Alba, or, rather, the Governor in his behalf, solicited a passage; but, on being informed that the vessel was extremely small, having but one berth, which the commander had given up to Colonel Gadsden, I could not consent. Colonel Forbes, however, embarked without my consent, knowledge, or approbation.

I refer you to my letter of the 1st of July for several preliminary arrangements proposed and acceded to respecting the preparation of the *procès verbal*; the ceremony to be observed in changing the flag; and the appointment of Messrs. Call, Bronaugh, and Brackenridge, to unite with the like number of persons to be appointed by the Governor, to examine and compare the inventories of archives and public buildings and property. Major Stanton had been appointed for the same service in relation to the artillery, and the taking of the inventory and receipt for the provisions and transportation of civil officers, &c.

By letter of the 3d of July, I communicated to the Governor the arrival of the ship "Lucy Ann," chartered in the room of the "Cora." I intimated that I hoped no delay would occur, on the arrival of the vessel from St. Mark's, of the embarkation of the Spanish troops, &c., on board the transports then ready, and the surrender of the country; that the vessels were under a heavy demurrage; and that I relied on his pledge that no unnecessary delay would be permitted on the arrival of the transports. The accident of the loss of the Cora, and the unusual detention of the vessels from St. Mark's, by contrary winds had already given the Governor much longer time than he could possibly have calculated on when he gave me the pledge al-

ready mentioned. Every day which now passed was so much gained on the other side, and a heavy expense to the United States. Instead of three or four days, the usual voyage from St. Mark's to this place, the vessels were detained by adverse winds thirteen days, and at length arrived at Pensacola on the morning of the 9th of July. This event I communicated without loss of time to the Governor, by my letter of the 9th, and requested him to appoint a day for the delivery of West Florida, with the fortress of St. Mark, according to the agreement previously entered into between us. I had been unremitting in my endeavors, as I think will fully appear by the correspondence, to leave nothing unsettled on the arrival of the vessels from St. Mark's, so as to permit no possible excuse for delay; as the Hornet had been here a month already, owing to the unlooked-for loss of the Cora, and the extraordinary prevalence of westerly winds, which prevented the arrival of the vessels just mentioned. For my correspondence with Major Fanning, I also refer to the accompanying documents. I also send you a copy of the order issued by me to Colonel Brooke, preparatory to the march of the troops to Galvez spring. My intention of moving to some convenient spot near Pensacola, immediately before taking possession of West Florida, had already been intimated to the Governor, and assented to. In answer to my request, the Governor, in his letter of the 10th, informed me that on the day following he would name a day, in conformity with his pledge. But on the day following, to my astonishment, he informed me, by his letter of the 11th, that on Saturday the 14th he would inform me whether the surrender should be made on the Monday or Tuesday following—both of these days being beyond the latest period fixed upon for the delivery. I confess I could not but feel considerable irritation; for it seemed to me, that if I permitted him to disregard his pledge at will in one particular, there was no knowing what was next to follow. I was disappointed in what I had confidently expected, and, under these feelings, addressed him my letter of the 12th of July. The troops had marched the day before to Galvez spring, and were on that day joined by me at that place. To the Governor's letter of the 13th, and my reply of the same date, I must beg leave to refer you. I sincerely regretted the unpleasant feeling occasioned by the circumstance I have detailed; but I acted under a sense of duty and a firm conviction of the necessity of the course pursued. The Governor fixed on the 17th as the day for the delivery, unequivocally, and without reserve; and in my letter of that date I advised you of my having obtained possession of West Florida.

I had reposed in the utmost confidence, after the friendly and satisfactory manner in which the delivery was made on the 17th, that the business was finally closed in the way I could have desired. But in this, I regret to say, I have been disappointed. On the day just mentioned, all papers, inventories, &c., were duly prepared for signature on either side, excepting the inventory and receipt

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for provisions, &c., not expressly stipulated for under the seventh article of the treaty. On the morning of the 17th Major Stanton informed me that he had been waited on by Mr. Cruzat, the Governor's secretary, who, on the part of the Governor, stated that, from ill health and press of business, he was not able to attend to the inventory at that time, and requested that it might be deferred, pledging himself that it should be made out in conformity with the agreement, and satisfactory to me. When this request was reported to me, I confess I was not a little surprised; and, in spite of the high opinion which my officers entertained of Governor Callava, and my own sincere wish to cherish the same opinion, the recollection of the conduct we have on so many occasions experienced from Spanish functionaries, and particularly the conduct of Governor Folk towards Messrs. Ellicot and Hawkins, rendered it impossible for me entirely to divest my mind of distrust. I had constantly cautioned those under my orders to be on their guard; and, on this occasion, I observed to Major Stanton, (who, it will be seen by the accompanying documents, had been fully instructed on the subject,) that if he could place confidence in the promises of the Governor and his secretary, I had no objection to the indulgence. After the Governor was restored to better health, and walking about the town, I urged Major Stanton to obtain the inventory and receipt, in order that I might close my communication to the Government. After a delay of some days, a receipt was presented to me, which, on being translated, I found, with indignation, to be a simple acknowledgment that the transportation and provisions had been furnished by the United States, in compliance with the stipulations of the seventh article of the treaty. I immediately informed Major Stanton that such a thing could not be received, and ordered him to call on Mr. Cruzat, and procure the kind of receipt agreed upon in our correspondence, and which he had pledged himself should be given. After a lapse of ten days, the note to Major Stanton from Mr. Cruzat was presented to me, in which I was informed that no other receipt than the one which the Governor chose to offer would be given. I immediately appointed Doctor Bronaugh to wait on Governor Callava, in company with Major Stanton, and demand a receipt in strict and literal conformity with my letter of the 23d of June, and assented to in his letter of the 25th. I refer you to the report of those gentlemen, by which it will be seen that he utterly refused. I then addressed him my letter of the 3d of August, declaring, in the most explicit manner, that, in consequence of his faithless conduct, the receipt given by me for the artillery is null and void, and that I should so report it to my Government—the execution of the one being the consideration of the other. The conduct of Governor Callava has mortified me exceedingly, especially as I had wished to think well of him, and as he had been uniformly represented to me as a frank, honorable soldier. I cannot but view his refusal, under the circumstances detailed, as a most base and flagrant breach of

faith. To prove that there could be no misunderstanding on the score of translation, I beg leave to refer you to the certificate of Messrs. Brackenridge and Rutledge.

I now proceed to lay before you the measures adopted by me for the government of East and West Florida in the best manner possible for the present. In this province, the Government, like every thing else, was in a state of dismemberment and neglect. The circumstance of its being on the eve of a transfer to the United States, occasioned a total indifference and carelessness in the administration of all its branches. For a more minute account, I refer you to the report of Judge Brackenridge, and to the ordinances herewith sent. According to the Spanish scheme of municipal administration, there ought to have been an alcalde, a judge de partido, a fiscal, a cabildo, or corporation, and alguazils, or sheriffs, and constables. At Pensacola, none of these offices were filled, except that of the alcalde, who was the only civil provincial officer, properly speaking, in West Florida. To limp along in this maimed and imperfect state, seemed to me intolerable. On consultation with an eminent lawyer from Orleans, who was present at the change of government there, and also with Judge Brackenridge, a gentleman of high legal acquirements, who was in Louisiana some time after, I resolved, without going as far as I understood the Governor of that province had gone, to fill up those offices which I found vacant, and to make such alterations as seemed to me absolutely called for by the mere circumstance of the cessation of the Government of Spain, and the extension of that of the United States over the country. The first ordinance establishes the corporation, to which this place under the Spanish constitution is entitled. The great accession of population, and the neglect of the police for the last two years, called for a body exclusively intrusted with its superintendence. Their powers conform to those which they would have possessed under the Spanish Government. The taxes which they are authorized to lay are such as have been usually paid. The board of health was peculiarly necessary, from the vital importance to this place to preserve its character for salubrity. The ordinance relating to the registering the names of those who may be desirous of claiming the benefit of the sixth article of the treaty was dictated, first, by the necessity of affording some evidence which could be used by those who were at once disposed to make their election and become citizens of the United States, and without which they would still be regarded as foreigners; and, secondly, by the impropriety, of which I had no little experience in Louisiana, of persons claiming exemption as foreigners, and the privileges of citizens, as it suited their convenience. The establishment of a county court, by adding four justices of the peace to the presiding judge, was with a view to the police of the county, as that of the city was intrusted to the corporation, and also for the trial of offences against the public peace and happiness. The presentments and trial by jury are both in the contemplation of

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the Spanish constitution, as well as that of the United States. The ordinance regulating the proceedings of the court in civil cases rather makes known the Spanish procedure than establishes any thing new to the Spanish law, excepting the pronouncing final judgment in public on set days, and requiring the witnesses to give evidence *viva voce*, when their attendance can be procured. The appointment of justices of the peace was so necessary a measure, particularly in the remote settlements, which are rapidly increasing, that it seems scarcely necessary to say any thing on the subject. It must be recollected that much the greater part of the population of this country are Americans; that the active commerce is carried on by Americans; and hence the necessity of assimilating the present institutions to something which they can understand, and of administering the laws by means of tribunals not altogether foreign to their habits and feelings. The distance from the Seat of Government is a great inconvenience, as months must elapse before any suggested alterations can be approved and put in operation. I believe the alterations which I have made, unimportant as they are, strictly conform to my instructions, and are certainly indispensable, unless all civil government should be suspended for the present. Colonel Butler informs me that the municipal organization was more complete at St. Augustine; that, besides the alcalde, there were a judge and a cabildo, or corporation: but little change will therefore be necessary in that quarter. The commission under which I act does not define my powers; and, I assure you, I am not a little at a loss when left to collect them from the nature of the office. Judging from the practice in Spanish colonies, the Viceroy, or Captain General, possesses legislative as well as executive powers over the provinces placed under his government. O'Reilly, in Louisiana, of his own authority, introduced the Spanish law, and established tribunals exactly modelled after those of Spain. But, according to the decrees passed under the constitution, those officers are strictly confined to the exercise of military and executive or political power; and the Intendants are exclusively intrusted with the superintendence of the revenue and public property: the former is excepted by the act of Congress. In this uncertainty, I have contented myself with merely organizing a Government from the materials at hand, with as little change as possible; promulgating the same by way of ordinance, in order that the people may have some knowledge of the system to which they must conform. These ordinances I now transmit for the approval of the President.

From the report of Judge Brackenridge, it will be seen that the only public documents or archives delivered over are those which, in the first place, belong to the notarial office, consisting of transfers of land from individuals, powers of attorney, protests, wills, and other acts, which in Spanish countries appertain to the duties of notary. An inventory of the unbound books containing these acts is transmitted, giving the year and number of

pages of each book. In pursuance of my directions, they were marked by Messrs. Call, Bronaugh, and Brackenridge, (who were appointed to compare them with the inventory,) with a letter of the alphabet, and signed, in order that they may be identified. In the second place, the archives of the alcalde's office, and which consist of the papers in suits, from the year 1781 down to the present time, and are very voluminous; but many of them, it is supposed, have been withdrawn or sent to Havana; and as there is no docket or book containing a record of these papers, being considered themselves as the records, it is extremely difficult to detect any fraud with respect to them. There are no original grants, surveys, maps, or even a plat of the city. It is well known that all these papers are at Havana, in the possession of the late Surveyor General Pintado, in whose transcripts of title-papers I do not think any reliance ought to be placed. Having the archives in his possession, he gives authenticated copies, and states himself, in these certificates, to be duly authorized to do so. From this shop it is probable that a number of such titles were transmitted to this country by the Hornet. I am confident that very extensive frauds have been attempted; this opinion is daily strengthened by observation, and I think it highly important that persons of integrity and intelligence should be appointed to sift them. The failure to obtain the archives at Havana will be seriously felt by the honest inhabitants of the country, and will call for more than usual vigilance and attention on the part of the Government to prevent frauds in *antedated titles*. The conduct of the Captain General in relation to the archives but too well confirms the opinion which I entertained of Spanish functionaries—at least so far as we have had any thing to do with them.

The report of Major Stanton, and the inventory of artillery, &c., receipted for, will show the value of those articles. Every thing, however worthless, has been brought forward, in order to swell that inventory to an imposing magnitude. I am well satisfied that, with the exception of two brass pieces at the Barancas, and two mortars and three howitzers, the cannon left with us is scarcely worth possessing. The artillery at St. Mark's is literally worthless; and I am of opinion that the value of the whole does not much exceed that of the extra transportation and the provisions which have been furnished, and not expressly stipulated for by the treaty. Major Stanton's report will also show the condition of the public buildings. The Government-house is in a ruinous state. I intended, at first, to occupy it myself; but, on examination, it was considered unsafe. It is a frame building, no way remarkable for its structure, and at present entirely out of repair, and in some parts rudely propped with unhewn timber. It has been taken by the officers for quarters, by which there has been a considerable saving to the Government. The block-houses were the most filthy and disgusting places imaginable; but, with some pains, they have been fitted up in such a manner as to afford quarters for the troops. The hospital, which is but a very ordinary building, was in a

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condition equally disgusting, but has been rendered fit for use by the exertions of the officers. The prison is in a tolerable state of repair, but is a very poor building; all the rest are uninhabitable. The barracks are said to have cost the British Government a large sum of money. The frame is still sound; the basement story is of brick; but the doors and windows have been torn off; the roof is decayed, and, in part, fallen in. Unless something be done in the course of a few months, it will be necessary to pull it down, as it will become a dangerous nuisance. The expense of repairing it will not be less than from \$12,000 to \$15,000. Proposals have been made to me by a Major Edwards to repair it at his own expense, on condition that he shall have the use of it for six years. The offer appears to me a very advantageous one to the United States; but, possessing no power to enter into it, I could do nothing more than to forward his proposals for the consideration of the President, with a request that an answer may be given as speedily as possible.

In my appointments to office, I was desirous of giving the preference, where I could, to the old inhabitants of the country. I found that but few were willing to accept any situation, from unwillingness to lose their rights as Spanish subjects; the greater part having been in some way or other connected with the Government, or having private claims which might be prejudiced by doing any act evincing their intention to become American citizens. Besides, it is said that strong inducements are held out by the Spanish Government to those who remove. The former alcalde was a half-pay officer, and, of course, could not be continued. The inhabitants, in general, I have found a sober, orderly, peaceable, and well-meaning people. I entertain a very favorable opinion of all the Spanish population, excepting of such as have been employed by the Government, which seems to have had every where the same corrupting influence over the minds and morals of those engaged in its administration.

I have confined myself, in this communication, to the subject of my commission for receiving the Floridas, and to the mere organization of the Government, reserving for a future and final communication the information which I may possess in relation to the country in general. The arrival of Colonel Butler from St. Augustine, and whose report is transmitted in another communication, has happily enabled me to close the business of my commission. This, I hope, has been done in such a manner as to meet the approbation of my Government.

I have the honor to be, sir, &c.

ANDREW JACKSON,

Commissioner for receiving the Floridas, &c.

P. S. AUGUST 14, 1821.—The foregoing communication was commenced on the day of its date, but was delayed several days, by inability to close the business of the inventory for the provisions, &c.; and after, by unavoidable causes.

A. J.

Hon. J. Q. ADAMS, *Sec'y of State.*

Report of Mr. Brackenridge to Governor Jackson.

PENSACOLA, July 26, 1821.

SIR: Besides the Governor of West Florida, there was but one provincial officer actually in the exercise of any civil functions: this was the alcalde, whose place you have appointed me to supply. The person in the exercise of this office, for reasons not necessary to state, could not be continued. I have taken pains to ascertain the duties of this office, but I assure you that it is with great difficulty I have been able to procure any thing of a certain and definite nature. I cannot speak positively with respect to the duties and powers peculiarly and exclusively belonging to the office, the extent to which its jurisdiction or authority reaches, or the changes or alterations made by the constitution, and decrees passed in pursuance of it. The alcalde here has acted as notary public; as chief of the police, he exercised a criminal jurisdiction, but of what nature I do not exactly know. He was superintendent and inspector of the prisons, and performed the duties of alguazil or sheriff. But, on more particular inquiry, I found that this judicial authority is confined to what is called the *conciliación*—an attempt at compromise, which the Spanish constitution positively requires before any suit can be instituted; and to cases of liquidated demands, to any amount, where the debt is confessed; and in which cases the alcalde has power to carry the judgment into execution, unless some question of law arise afterwards in the course of the proceedings, when he must stop. In all contested cases, and in all questions of law, the dictum of a judge, *juez de letras*, is necessary to make a decision. There was formerly a *letrado*, or *auditor de guerra*, at this place, for the purpose; but there has been none here for some time past. By the decrees under the constitution, the office of *auditor* and that of *asesor* have been abolished, and a legal judge is contemplated, with an appeal to other tribunals. By the same decrees, the Viceroy, Captain General, and ultramarine commandants, are circumscribed to functions of a military and political nature, and the Intendant is confined to the collection and management of the revenue. Whether considered under the old or the new order of things, there existed a material deficiency in the organization of the civil government in this province, and especially in the judicial department. I have been able to procure but little information from my predecessor in office; what he said was summed up by the remark that I had more power than the Governor. In conversation with Colonel Callaya, he informed me that the organization was defective; that he had solicited the appointment of ultramarine sub-delegate, as there was at this time no authority in the province to decide a law-suit; that he had obtained it; but, having some doubt on the score of the constitutionality of exercising civil and military functions, and considering the probability of a speedy transfer of the country, he had not thought it worth while to exercise it.

It is evident that the civil government cannot be administered, without filling up the offices

which are vacant, without some modifications which the change of sovereignty and severance from Spain render unavoidable, and without establishing some offices to correspond with those contemplated by the Spanish system, but where exactly the same offices cannot be preserved.

In Spanish towns containing less than a thousand souls, all the civil functions of the place are generally discharged by an *alcalde*; where the population exceeds that number, the constitution gives a right to a *cabildo* or corporation, and mayor and aldermen, or *corregidores* and *regidores*. As Pensacola was the capital of the province, this circumstance alone entitled her to be considered a city. There formerly was a corporation here, but it has fallen into disuse—for what reason I do not know; but its members were elective, as the office of the *alcalde* has been since the constitution. To require an election under present circumstances, would be to require an impossibility, and would be the same thing as to say there shall be no civil government; for there is no proper officer to hold an election, and there is no way of ascertaining who would have a right to vote. I should think that the powers which, from accident, or other causes, have centred in the hands of the *alcalde*, may be distributed to other and such officers as are in the contemplation of the Spanish frame of government, or approximating to them as much as possible. To establish exactly the Spanish tribunals, cannot be done, for the reasons already stated, although I believe that no important deviation will be necessary; nor do I think it important, if the powers be substantially the same, that the name should be scrupulously retained, as, for instance, mayor for *corregidor*, sheriff for *alguazil*, and presiding justice for *juez de letras*. The Spanish constitution contemplates a number of tribunals which I am informed have been established by subsequent decrees, but with which I am not acquainted. There was no regular Spanish lawyer here, although a few of the military officers were acquainted with the routine, and were often employed in the management of causes, which was done by writings signed by the parties. As it is impossible for parties themselves to pursue the tedious routine of a Spanish law-suit, it will be necessary to license attorneys. I have said nothing of the appointment of justices of the peace on the rapidly increasing settlements of the Perdido, Escambia, Conecuh, Yellow Water, Choctawhatchie, and Apalachicola, which, I presume, will be agreed on all hands to be absolutely necessary.

The establishment of a corporation in Pensacola, or rather its restoration, has been productive of the happiest effects. Peace, quietness, and order, have taken the place of continual daily and nightly disturbance and disorder. The military force has been almost dispensed with, and its place supplied by civil officers. Attention to the health and comfort of the city has succeeded the total neglect with which these important considerations were treated for months before the change of sovereignty. For the police of the county, the keeping the roads and bridges in repair, licensing retailers, and for the trial of offences against the

public safety and happiness, some tribunal is called for. The population of Pensacola, and of the country in general, has increased with very great rapidity; the Americans in this place already outnumber the Spaniards. It may, perhaps, admit of a question whether the Constitution of the United States does not extend its authority over this country by the mere circumstance of its coming under the American Government, and ceasing to be a dependency of any other Power; and, if so, secures to the American citizen, when arrested for crimes or offences, an open and public trial by jury, to be confronted with his accuser and the witnesses brought to testify against him. I should think, moreover, that the article in the treaty of 1795, between the United States and Spain, if possessed of any meaning, is intended to secure some of these privileges to American citizens. I find no Spanish law which secures them to him, and, according to the existing state of things, there is no tribunal here which has power to try him at all. The power of the *alcalde* extends no further than to take the examination and the deposition of witnesses, to be sent to Havana for decision; or to conduct the conciliation, which is allowed in minor criminal as well as in civil cases. The only criminal records in my office are huge piles of papers containing every thing the parties chose to bring forward; one of these, which I examined, is a proceeding against a person charged with passing counterfeit notes, but who was never apprehended; the prosecution, however, went on, and his property was seized and sold for the costs. Another is the case of two negro men who killed a white man—one of a party, it is alleged, who attempted to kidnap them. One of the negroes was sold to pay the expense of the investigation, and one of the white men, a person of the name of McReynolds, remained near two years in prison here without a trial, and was let out by the Spanish *alcalde* on the morning of the delivery of the country. During the time that the temporary government was exercised by the officers of the United States Army, some justices of the peace were appointed; but I find no record of any judicial proceeding during that period. Some cases of considerable importance were decided in a summary manner; but as they could not be regularly followed up, from the want of the proper tribunals and officers, the circumstance has, in several instances, been productive of considerable inconvenience.

There is, properly speaking, no trial known to the Spanish judicial procedure. There is what is called the *diligencia*, or process; generally a mass of papers consisting of the writings of either party, accompanied by whatever he may think proper to exhibit in the progress of a cause, whether relevant or not, and with *ex parte* affidavits; so that very often the original points of dispute are lost sight of, and even the original parties. The bulk of these papers naturally increases in proportion to the amount in dispute, and the prospect of obtaining fees. The costs of court alone generally amount to from fifty to five hundred dollars. As no judgment is pronounced in open

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court, or counsel bound to take notice of such judgment, as well as of decrees and orders made in the course of a suit, these must be notified to the opposite party at very considerable expense. Suits commenced and carried on in this way can, of course, never be transferred to, or be acted on by, American courts, and which will certainly be established before many months. The mass of irrelevant matter, and the *ex parte* affidavits, will, of course, render it impossible to act on such records. But the mere mode of administering justice through the courts, the time, place, and manner, I should think, for the greater part, perfectly within their own control; at least within the control of the person or persons exercising supreme authority in the province. Every essential right of a party may be as well secured by a public trial and judgment, as by a private one by the judge in his closet; truth may be as well got at by evidence given *viva voce*, in presence of the parties, as by *ex parte* affidavits; parties can as well be informed of intermediate orders by their counsel, as by the witnesses de *asistencia* or a notary public. All these purposes are much more cheaply and simply obtained in Louisiana, by the practice adopted to supply the place of the Spanish, but closely modelled after it, and greatly pruned and simplified. Provided all the usual orders be taken, the form of entering them on record, if in two lines, where *thirty* are now used, does not seem to me objectionable. I believe that, without the alteration of any thing of importance, besides what has been mentioned, the proper and regular tribunals may be established to administer justice, civil and criminal, and by this means reconcile the difficulty of administering the Government with the *existing authorities*, and of respecting every right which the citizen of the United States can justly claim as such under the Constitution or treaty with Spain. Another, and a very obvious inconvenience of the present state of things, is, that the powers of the different officers, and the course to be pursued to obtain redress, are unknown to the people. I have endeavored, without success, to procure even the fee-bill. A person has been usually employed to tax the costs, for which he was entitled to two dollars. The *jues de letras*, according to the Spanish law, regulated his own charge for his order or decree, and, in one case in this office, it amounts to six hundred reals, or one hundred dollars!

The truth is, that, with respect to the nature of the tribunals and civil functionaries which ought to exist here, whether under the old or new order of things, according to the Spanish laws, and the exact mode of procedure in judicial proceedings, it is impossible to obtain any exact and safe information. Whatever the theory may be, the practice here, I believe, depended on the individual in power or office. To carry on the Government under present circumstances is out of the question; for some time past there has been, in fact, no Government; and the change in the state of society requires an immediate organization of some kind or other. What is wanted is a plain and simple mode of proceeding, capable of being

understood and made known; a tribunal before which a trial can be had, whether it be constituted of an *alcalde*, *asesor*, judge, *letrado*, or *juez de letras*.

On the subject of the archives delivered to me by the former *alcalde*, they consist of unbound books from the year 1781 until the present time, and contain nothing more than the transfers of property from one individual to another, protests, wills, mortgages, and powers of attorney; and which, strictly and properly, under the Spanish laws, belong to the office of notary. Excepting the extract of the treaty of 1783 between Spain and England, there is nothing in the office which belongs to the Department of State: there are not even the original grants made by the Spanish Government to individuals; all which are said to be in the Havana. These papers are, however, highly important to the inhabitants of the country; and, in order that they might be completely identified, over and above the inventory of the books furnished by the Spanish officers, Captain Call, Dr. Bronaugh, and myself, in pursuance of your instructions, numbered and lettered them, placing our signatures on each book, and making an inventory in this form, which remains in the office as a part of the records. The other papers delivered to me are, the processes or diligencias of lawsuits; which are also important to the inhabitants of the country, but not to the Government of the United States.

I am, with great respect, yours, &c.

H. M. BRACKENRIDGE.

P. S. Since writing the above, I have procured in MS., from a private gentleman, the decrees of the Cortes establishing the jurisdiction of *alcalde*, &c. How far am I to be governed by the Spanish laws in force before the constitution, or passed since that period? If the latter, to what period are those decrees to be considered as in force: to the time of ratifying the treaty, to the present time, or until the establishment of a Government by act of Congress? These questions cannot easily be answered. The Governor here still exercised the powers of admiralty judge—in virtue of what law I know not: it was the only judicial power he did exercise since the adoption of the constitution.

CHAPTER THIRD.

Of the constitutional alcalde of towns (pueblos) or villages.

ARTICLE 1. As the *alcaldes* of towns exercise the office of conciliator in the same, whatever any one has a right to demand of another before the judge of the district (*partido*) in civil cases, or for injuries, (*torts*), he must present himself to the *alcalde*, who, with two arbitrators, (*hombres buenos*), to be named by each party, shall hear the parties, and the reasons they may allege; and, after the opinion of the two thus associated, shall, within eight days, at furthest, award what may appear proper for the termination of the difference, without any further proceedings. This award shall in effect, terminate the same, provided the parties

be content therewith; and it shall be entered on a book to be kept by the alcalde for that purpose, to be called the *conciliatory determinations*, the alcalde, the arbitrators, and the parties signing the act; and to them the requisite certificate shall be given.

ART. 2. In case the parties do not agree, it shall be so entered on the same book, and the alcalde shall give to the party requesting it a certificate of the attempt at conciliation, and the failure thereof.

ART. 3. When any person residing in a different town shall be cited before the alcalde conciliator, the citation shall be made through the judge where he resides, requiring him to appear, by himself or attorney, within a reasonable time; and, not appearing, a certificate shall be given to the plaintiff, declaring that the attempt at conciliation had been made, and that it had failed through the default of the other party.

ART. 4. If the demand before the alcalde relate to the detention of the debtor's goods, when such debtor intends to withdraw them, or to the interdiction of some new work, or other matters of like urgency, and the plaintiff pray the alcalde immediately to make a provisional order, to avoid the injury from delay, the alcalde may grant the same, and shall proceed immediately to the conciliation.

ART. 5. The alcaldes shall, moreover, take cognizance, in their respective towns, of civil demands to the amount of 500 reals as in Spain, and of \$100 beyond seas; and of criminal cases relating to injuries (*torts*) and trivial faults, which merit no higher punishment than a reprimand or slight correction; one or the other being determined merely in a verbal manner. For this purpose, in the civil demand above mentioned, and in the criminal cases relating to injuries, the alcaldes shall also associate with them two good men named by each party, and, after hearing the plaintiff and defendant, and the opinions of the persons associated, they shall give, before the clerk, such sentence as may be proper, and from which there shall be no appeal; nor will any other formality be requisite than that of entering it briefly in a book to be kept for verbal judgments; the alcalde, arbitrators, and clerk signing the same.

ART. 6. The alcaldes of towns shall also take cognizance in all suits (*diligencias*) of a civil nature, until they shall reach the point of litigation or dispute (*el contencioso*) between the parties, on which they are to be transmitted to the judge of the district, (*partido*.)

ART. 7. They may, in like manner, take cognizance in the first stage of such cases, which, although litigated, are of a very urgent nature, and do not afford an opportunity of resorting to the judge of the district, as the taking of inventories, the interposition to prevent the retracting in an undertaking, and the like; taking care to transmit them to the judge on the attainment of the object.

ART. 8. The alcaldes, in the case of the commission of any crime within their jurisdiction, as on finding any delinquent, should proceed offici-

ally to form the first proceedings of the examination and arrestation of the offenders, if there should appear to be any offence deserving corporal punishment; or, when apprehended *flagrante delicto*, they must give an account of them to the judge of the district, transmitting the proceedings to him, and placing the offenders at his disposal.

ART. 9. The alcaldes of the towns in which the district judge resides may and ought to take previous cognizance of such cases as are included in the provisions of the preceding articles, giving an account of them to the judge without delay, in order that the latter may continue the proceedings.

ART. 10. In all the suits to which the causes, civil as well as criminal, may give rise, the district judges cannot use other means to carry their judgments into execution than the alcaldes of the towns.

ART. 11. With regard to the government, economy, and police of the towns, the alcaldes will exercise the jurisdiction and powers which have heretofore been held by the ordinary alcaldes, taking always the constitution for their guide.

CHAPTER FOURTH.

Of the administration of justice in the first instance, (primera instancia,) before the formation of districts.

ARTICLE 1. Until the distribution of districts, provided for in the second chapter, be made and approved, and the letrados of the same be appointed by the Governor, all the causes and suits, both criminal and civil, will be prosecuted, in the first instance, before the letrado of royal nomination, the sub-delegates of ultramarine dominions, and the constitutional alcaldes of towns.

ART. 2. The letrados appointed by the King will be limited precisely to the exercise of jurisdiction over disputes respecting towns in which they have held it hitherto; and if in any of those towns they have exercised it previously with the alcaldes, the latter, with the letrados, will continue their authority to take cognizance of suits by anticipation.

ART. 3. In the other towns, in which there are no letrados, nor ultramarine delegates, the constitutional alcaldes will exercise the jurisdiction over disputes in the first instance, as the ordinary alcaldes have exercised it.

ART. 4. The alcaldes of the towns in which there is no letrado, nor ultramarine delegate, and in which the former have not exercised the jurisdiction previously with the latter, will take cognizance of disputes in no other cases but those mentioned in the fifth and eighth articles of chapter third.

ART. 5. The alcaldes, with an absolute inhibition of the letrados and ultramarine sub-delegates, will take cognizance of the government, economy, and police, of the respective towns.

ART. 6. The constitutional alcaldes of the towns will, forthwith, enter on the functions of conciliators, agreeably to the provisions contained in the first four articles of the same third chapter; and no demand, civil or criminal, shall be admitted, in

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case of injuries, without the certificate of the method of conciliation having been tried, and that the parties would not agree thereto. The regency of the kingdom is hereby notified of the same, and required to make the necessary dispositions for carrying it into effect, &c.—“1812.”

On the restoration of the constitution, these, among other laws passed under it, were revived. The powers of the viceroys and commandants, or governors, have undergone a complete change, and, without being aided by other officers and tribunals, contemplated by the new order of things, it is impossible to carry on the civil administration according to the existing frame of Government. A cessation of the administration of justice for two months would be calculated to produce great mischief. The former Government did not scruple to use force when they thought proper, and paid just as much attention to the theory of their authority as they pleased.

The foregoing is all that is to be found in relation to the only tribunal existing in West Florida for the administration of justice. The alcalde is little more than an officer appointed to introduce the parties to the tribunal capable of deciding. And this tribunal is a connected part of a chain of tribunals, from which it cannot be separated without rendering it useless and incomplete. The appointment of a judge, according to the Spanish plan, is necessary. But the exact modes of introducing and following the suit are alone calculated for an unmixed Spanish population, and to be administered by Spaniards; for they are totally at variance with all American ideas. In criminal cases, it has no power whatever to try an offender.

H. M. BRACKENRIDGE.

His Ex'cy Major Gen. JACKSON,
Governor of the Floridas.

PENSACOLA, July 18, 1821.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and of the Intendant of the island of Cuba over the said provinces, and of the Governor of the said provinces, respectively:

That, with a view to the preservation of the good order and health of the town of Pensacola, I do ordain—

SECTION 1. That there shall be appointed by the Governor, annually, a chief officer, to be called the mayor, and six subordinate officers, to be called aldermen, who shall form a council, and have and exercise all the powers necessary to the good government of the said town.

SEC. 2. That the said mayor and council shall have power, by ordinance or otherwise, to impose fines and forfeitures for the infraction of their regulations, and to appoint such officers as they may deem necessary to enforce their ordinances, and to levy such taxes as may be necessary for the support of their town government.

SEC. 3. As the Christian Sabbath is observed

throughout the civilized world, it is ordained that, in order to remove any doubts which might be entertained with respect to the powers of the mayor and council on this subject, the said mayor and council be authorized to make any regulation for the due observance thereof which they may deem proper.

SEC. 4. In order to remove all doubts on the subject of the limits of the said town of Pensacola and its dependencies, as well as the places under the immediate control of the mayor and council, all the fountains and springs from which the inhabitants are supplied with water, it is ordained that the incorporated limits of the said town shall be as follows: Bounded on the south and east by the harbor; on the west by the Western Lagoon, or Bayou Chicot; and on the north by a line running due east from Galvez spring to where such line intersects the Eastern or Texar Lagoon.

SEC. 5. That public gaming-houses, as well as public gaming of every description, (billiards alone excepted,) shall be, and the same hereby are, interdicted and prohibited, under the penalty of two hundred dollars for each conviction, and the forfeiture of all the apparatus or machinery used towards the commission of such offence, as well as all sums of money which may be seized by the police officer, or other person—one half to the use of the informer, and the other to the use of the town; and that each and every person so convicted shall be and stand committed to prison until the whole of said fine and costs be paid; and, moreover, until he shall have found good and sufficient security in the sum of five hundred dollars for his good behaviour for and during the term of one year.

SEC. 6. That the mayor and aldermen, as is provided for in this ordinance, shall be known and called the City Council of Pensacola; and, in that name, may acquire and dispose of property for public uses, and sue and be sued, and plead and be impleaded, on all subjects relating to and connected with the said town and its dependencies.

SEC. 7. That all innkeepers, grocers, and all other retailers of liquors, are, by this ordinance, expressly prohibited from furnishing or selling any liquor or ardent spirits whatever to any soldier in the service of the United States of America, under the penalty of \$19 for each offence; and to stand committed to the common jail until the said penalty, with costs, are paid.

ANDREW JACKSON.

By the Governor:

R. K. CALL, *Act'g Sec'y of W. F.*

An ordinance for the preservation of health in the city of Pensacola.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and the Intendant of the island of Cuba over the said provinces, and of the Governor of the said provinces, respectively.

SECTION 1. That every vessel arriving between

the first day of June and the last day of October in each year, from any port between the equator and thirty-three degrees of north latitude, shall be brought to at the Barancas, or at such other point as the board of health may direct, and there perform a quarantine of twenty-four hours at least, and as much longer as the health officer at the Barancas (or at such other point as the board of health may direct) and the board of health may deem necessary, not to exceed forty days.

SEC. 2. That there shall be established a lazaretto at the Barancas, or at such point as the board of health may direct, for the accommodation of the sick, under such regulations as the board of health may from time to time establish; and that, until the Government of the United States shall establish a public warehouse at such lazaretto, the cargoes, or such part thereof as the health officer and the collector of the port of Pensacola may deem necessary, shall be stored under the direction of the commanding officer of the troops at Barancas.

SEC. 3. That the quarantine limits shall be cannon-shot range, or two miles, in a direction towards the harbor from Fort St. Carlos de Barancas, or at such point as the board of health may direct; and that any person or persons belonging to, or having had communication with, any vessel or vessels under quarantine, who shall pass those limits without permission first had and obtained from the resident physician or health officer, shall forfeit and pay a sum not exceeding three hundred dollars, and be imprisoned in the common jail for a term not exceeding six months.

SEC. 4. That, for the more effectually guarding against the introduction of disease, there shall be established a board of health, which for the present, shall consist of an officer to be appointed and called the resident physician, and the mayor and aldermen of Pensacola, (over whom the resident physician shall preside,) who are by this ordinance authorized to make, and from time to time to alter, such laws and regulations as they may deem necessary to insure the health of the city.

SEC. 5. That there shall be a health officer appointed and stationed at the Barancas, or at such other point as the board of health may direct, whose duty it shall be to board every vessel bound inwards; to see that the provisions of this ordinance, and all such regulations as the board of health may make, are strictly complied with; and to report from time to time, as occasion may require, to the board of health,

SEC. 6. That such allowances shall be made to the resident physician and health officer (all their services included) as shall not exceed one dollar and one half for each person on board of each vessel, to be regulated and determined by the mayor of Pensacola, who is authorized to receive from every vessel, the cargo of which it may become necessary to land and store, such other and further sums as may be necessary to cover all expenses incident to the same.

A. JACKSON.

By the Governor:

R. K. CALL, *Acting Sec'y of W. F.*

An ordinance prescribing the mode of carrying into effect the sixth article of the treaty of amity, settlement of differences, and limits, between the United States of America and His Catholic Majesty.

PENSACOLA, July 21, 1821.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and of the Intendant of the island of Cuba over the said provinces, and of the Governors of the said provinces, respectively.

Whereas, by the sixth article of the said treaty, it is amongst other things provided that, on the entrance of the ceded territories into the Union, the inhabitants thereof shall be "admitted to the enjoyment of the privileges, rights, and immunities, of the citizens of the United States." Now, therefore, as well with a view to guard against impositions that may be practised by foreigners, as to secure to the inhabitants their free choice to become citizens, under the provisions of the said treaty:

SECTION 1. I do ordain that the mayor of the city of Pensacola, and such other persons as may be appointed for the purpose in any town or county in these provinces, shall open a register, and cause to be inscribed the name, age, and occupation of every free male inhabitant of such town or county, who may be desirous to profit by the provisions of the sixth article of the treaty as aforesaid in part recited: *Provided*, That the person or inhabitant who may thus desire to have his name inscribed shall first satisfy the mayor, or such other persons as may be appointed to open registers, that he was really an inhabitant of the ceded territory on the 17th day of July, 1821: *And provided, also*, That he will, of his own free will and accord, abjure all foreign allegiance, and take the oath of allegiance prescribed by the laws of the United States.

SEC. 2. That the said office of register shall continue open for and during the space of twelve months, when the same shall be closed, and a copy thereof transmitted, under the seal of the said mayor, or other persons appointed to open registers, to the secretaries of the said territories.

SEC. 3. That, from and after the period of the said register being so closed, no other free male inhabitant, above the age of twenty-one, and entitled to make his election as aforesaid, shall be, within the ceded territories, entitled to any of the rights, privileges, and immunities of a citizen of the United States, but shall, to all intents and purposes, be considered as a foreigner, and subject to the laws of the United States in relation to aliens.

SEC. 4. It shall be the duty of the heads of families within the said provinces, being desirous to profit by this act, to furnish the mayor, or such other persons as may be appointed to open registers, with the name and age of every free male member of his family; and the said mayor shall cause the same to be inscribed on the register, as before provided for.

SEC. 5. In order to guard the more effectually

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against impositions, as well as to give to the inhabitants the security which citizenship will afford them abroad, it is further ordained that the secretary or secretaries of the ceded territories grant to such inhabitants as may be desirous of receiving the same certificates of citizenship, he or they being first satisfied that the provisions of this ordinance shall have been complied with.

SEC. 6. The evidence upon which the secretary or secretaries shall proceed to grant certificates of citizenship shall be, a certificate of the clerk of the mayor, or such other persons as may be appointed to open registers, that the applicant has complied with the requisitions of this ordinance; upon the receipt of which, it shall be the duty of the secretary or secretaries to grant to all and every such applicant or applicants certificates of citizenship, for which the said clerk and secretary shall be entitled to one dollar each; and, for every name entered on the register, the mayor, or other persons authorized to open the same, shall be entitled to one dollar.

ANDREW JACKSON.

By the Governor:

R. K. CALL, *Act'g Sec'y of W. F.*

PENSACOLA, July 21, 1821.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and of the Intendant of the island of Cuba over the same, and of the Governor of the said provinces, respectively.

Whereas, from the extent of the ceded territories, it becomes necessary to make such divisions as will promote the convenience of the inhabitants, and the speedy execution of the laws; wherefore, and in virtue of the authority vested in me by the Government of the United States, I do ordain:

SEC. 1. That the said provinces be divided, as follows: All the country lying between the rivers Perdido and Suwanee, with all the islands therein, shall form one county, to be called Escambia; and all the country lying east of the Suwanee, and every part of the ceded territories not designated as belonging to the former county, shall form a county to be called St. John's.

SEC. 2. In each of said counties, and for the government thereof, there shall be established a court, to be designated a county court, and to be composed of five justices of the peace, any three of whom shall form a quorum; and the eldest, by appointment, to be president of said court, whose jurisdiction shall extend to all civil cases originating in the said county, where the matter in controversy shall exceed twenty dollars, and to all criminal cases; saving to the parties the right of appeal to the Governor in all cases above the sum of five dollars; and that there shall be no execution for a capital offence until the warrant of the Governor be first had and obtained.

SEC. 3. That the judicial proceedings in all civil cases shall be conducted, except as to the examination of witnesses, according to the course of the existing laws, or of the laws of Spain; and

in criminal cases according to the course of the common law;—that is, no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury. And in all criminal cases the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county wherein the crime shall have been committed; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

SEC. 4. There shall be a clerk appointed for each of said county courts, who shall receive for his services such compensation as the court for which he is appointed may, from time to time, and in each suit, tax or allow. And there shall also be a sheriff appointed to each county, to execute the process thereof, whose services shall be compensated by the court to which he is appointed, in like manner as is provided for the clerk. And the said clerk and sheriff shall give bond to the presiding justice for the faithful discharge of their duties.

SEC. 5. Each county court shall hold quarterly sessions, and continue the same until all the business pending therein shall be disposed of. The first session to be held at Pensacola on the first Monday of August next, for the county of Escambia; and at St. Augustine on the second Monday of September next, for the county of St. John; with power to adjourn from time to time.

SEC. 6. There shall not be less than ten justices of the peace commissioned for each county, whose jurisdiction shall extend to all cases not exceeding fifty dollars, saving to the parties or suitors an appeal to the county court in all cases wherein the matter in dispute shall exceed the sum of twenty dollars; and shall also be authorized in all criminal cases to exact surety for good behaviour, and to take recognizances, in cases bailable, for the appearance of the accused before the county courts.

SEC. 7. That the examination of all witnesses within the jurisdiction of the courts, except where their personal attendance cannot be procured, shall be conducted *viva voce*, and in open court; that the parties may conduct their suits in person, or by such counsel as they may choose: *Provided*, That the said counsel or counsellors shall have been duly licensed to practice in the courts of the said ceded territories by the Governor.

SEC. 8. The alcaldes shall continue to exercise the power of judges of probate, registers of wills, notaries public, and of justices of the peace, and such other powers appertaining to the said offices as have not been otherwise distributed; saving a right to appeal to the county courts in all cases.

SEC. 9. That the judges of the said county courts shall have power to impose such taxes upon the inhabitants of their counties, respectively, as, in their discretion, may be necessary to meet and defray the expenses which may be incurred in carrying this ordinance into effect.

SEC. 10. That the said county courts shall have and exercise the power of directing, by special

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venire, or otherwise, the summoning of all jurors, grand as well as petit.

SEC. 11. That the said courts shall have the power of creating and regulating their process and proceedings, from time to time, as they may deem necessary; and shall, as soon as convenient after their organization, prepare and report a fee-bill to the Governor for his approbation.

SEC. 12. That the said courts shall have and exercise the power, beyond the limits of Pensacola and St. Augustine, of granting and recalling licenses and commissions for innkeepers, retailers of liquors of every description, and keepers of billiard tables; and to require of them such surety as they may deem proper, and impose such price for each license as, in their opinion, may be reasonable.

SEC. 13. That it shall be the duty of said courts, in regulating their process and proceedings, to confine the parties strictly to the merits of their cause; and to cause all useless matter, as well as unnecessary form, to be expunged from the pleadings, at the expense of the party introducing the same, so that justice may be administered in the most simple, cheap, and speedy manner.

SEC. 14. In all criminal cases, the process and indictment shall be in the name of the United States; and there shall be appointed a prosecuting attorney for each of the said counties, who shall receive, in each case, a reasonable compensation, to be taxed by the court.

SEC. 15. That the police of the roads and bridges, without the limits of Pensacola and St. Augustine shall be under the immediate direction of the said county courts; the police of the cities to be exclusively confided to the mayor and aldermen.

ANDREW JACKSON.

By the Governor:

R. K. CALL, *Acting Sec'y of W. F.*

An ordinance explanatory of the mode of proceeding in the county courts.

PENSACOLA, July 26, 1821.

By Major General ANDREW JACKSON, Governor of the provinces of the Floridas, exercising the powers of the Captain General and Intendant of the island of Cuba, and of the Governor of said provinces, respectively.

SECTION 1. All suits in the county courts of Escambia and St. John's shall be commenced by petition, setting forth, concisely, the nature of the demand or complaint, and praying such relief as may be suited to the circumstances of the case; the same to be filed by the clerk, and the suit to be entered on a docket to be kept for the purpose.

SEC. 2. A copy of the petition shall be made out by the clerk, and a citation to the adverse party annexed thereto, the form of which is to be settled by the presiding justice, and to be signed by the clerk, requiring the adverse party to appear at a day certain to answer to the complaint; and the said petition and citation to be served on him by the alguazil, who shall take such security as may be required according to the existing laws.

SEC. 3. That, in case the defendant shall not appear on the day to which he shall be cited, the court may enter judgment against him by default, in all cases where the demand is liquidated by proven account, by bond, note, or final judgment; but the same may be opened within three days, should the party appear and put in his answer; and, in the case of all other demands or complaints, the court shall proceed to hear testimony, assess damages, and render final judgment; but, in case the citation and petition be not served from inability to find the defendant, then the court to proceed in such case according to the manner pointed out by the existing laws.

SEC. 4. The substance of the judgment of the court, and the different orders taken in the progress of the suit, shall be briefly noted on the record, and signed by the presiding justice; and in all cases where orders or judgments shall be made or passed in open court, or where counsel have been employed, the notification of such judgments or orders to the parties shall be dispensed with.

SEC. 5. That if, on the day appointed, the defendant shall appear, by himself or counsel, he shall have three days to put in his answer, and such further time as the court may allow; and, in case of liquidated demands, he shall be required to put in such answer on oath.

SEC. 6. That, after final judgment, execution shall issue, without any further order, and the appraisalment notice and sale shall proceed, as under the Spanish laws; all which to appear, in substance, on the record: the sale to be made by the alguazil, mayor, or sheriff.

SEC. 7. That all entries on the records shall be in English; but it shall be at the option of the parties to file their petitions and answers in English or Spanish; and in case that both or either of the parties shall be Spaniards, the writing served on them to be in both languages.

SEC. 8. That there shall be adjourned courts on the first Monday in every month for the trial of civil cases and signing judgments, and to which citations, executions, and other process may be made returnable; and the form of all such process to be settled by the presiding justice, following, as nearly as possible, the forms in use in Spanish tribunals.

SEC. 9. In all cases where either of the parties may require it, the testimony of the witnesses to be taken in writing at the trial, and the reasons on which the court shall have founded its decision to be entered on record.

SEC. 10. The papers or other documents on which the suit may be founded shall be filed with the petition, and either party may put interrogatories to the other, according to the usages in Spanish tribunals, and which the other party shall be bound to answer; otherwise, the matter therein to be taken *pro confesso*.

SEC. 11. The clerk shall have the power to issue summonses to compel the attendance of witnesses; but depositions to be read in evidence to be taken by the proper order of the presiding justice, with notice to the adverse party.

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SEC. 12. The usual acts of conciliation, orders, and decrees, according to the Spanish practice at the commencement and in the progress of every suit, may be made by the presiding justice; but the trial and final judgment shall, in all cases, be pronounced in open court.

SEC. 13. That the following fees be received by the officers, and no other:

To the crier, for every cause - - -	\$1 00
Sheriff, serving every citation - - -	1 50
Subpœna for each witness - - -	50
Attachment and return - - -	2 00
Keeping personal property and slaves, to be allowed by the court.	
Taking bond on seizures, and for security, in cases of liquidated demands - - -	1 00
Serving execution, and money paid without sale - - -	2 00
Execution against the property, none found - - -	1 00
Making sale and levying the debt, for the first one hundred dollars - - -	5 00
For all sums above that amount, per cent. - - -	2 50
Keeping and maintaining a prisoner in jail, for each day - - -	25
Whipping any person sentenced to that punishment - - -	1 00
Executing any condemned person - - -	10 00
Notaries public, for attesting all national acts - - -	1 50
Making the same, when required, for each one hundred words - - -	25
For copies with certificates - - -	12
Constables, serving State warrants, to be paid by the city or defendant - - -	50
Summoning witnesses - - -	50
Serving execution - - -	50
Selling property under execution - - -	1 00
Serving search warrant - - -	1 00
Serving attachment - - -	1 00
Translators, for each one hundred words - - -	25
Mileage, to be entitled for every mile necessarily travelled in the service of process - - -	06
Interpreter shall receive in every suit - - -	2 00
Clerk of the court, for every citation - - -	1 00
Entering every order - - -	50
Administering oath, and writing the same - - -	12
Filing petitions, interrogatories, answers - - -	20
Entering judgment - - -	1 00
Execution - - -	
Summons to witness - - -	50
Copies of all papers, each one hundred words - - -	25
Entering satisfaction on judgment - - -	50
Taking depositions - - -	25
Judges, for every order or decree out of court - - -	50
Trying cause and entering judgment, to each justice - - -	1 00
Prosecuting attorney, for every conviction - - -	5 00

ANDREW JACKSON.

Governor Jackson to the Secretary of State.

PENSACOLA.*

SIR: I have the pleasure to inform you that Colonel Butler reported to me his arrival here on the 8th instant, and that he had, on the 10th ultimo, agreeably to my instructions, received possession of East Florida and its dependencies, and that he had forwarded to you a full report of all his proceedings as commissioner for receiving possession of the same. You will find, from my instructions to him, that I had communicated to him the agreement with Don Jose Callava respecting the ordnance claimed by him as not appendages to the fortifications, and also as to the provisions and transportation of the civil officers; and the transportation of the families and servants of both the civil and military officers, all of which was well understood by the Spanish Governor and myself here, and which has been arranged, agreeably to my instructions, by and between Colonel Butler and Governor Coppinger, in the delivery of East Florida, and referred for a decision to our respective Governments.

I am happy to find that Colonel Butler has conducted himself in this whole transaction with his usual ability and prudence, and which I hope will meet with the approbation of the Government. Colonel Butler reports further to me that, before he left St. Augustine, he was confidently informed that Governor Coppinger, in the last six months, had been issuing grants. New grants are daily appearing here for lots laid out in the public square of the city of Pensacola, sold by Governor Mazot. Seeing this, I thought it my duty to order that no improvements should be erected in the public square until these rights were decided upon by our Government. Many of these lots have been enclosed—a circumstance injurious to both the health and beauty of the town, and to those who have heretofore purchased, as was believed, fronting the square.

There are many and flagrant frauds committed and committing with regard to grants for land; and it is believed that the reason why the archives were not delivered to our agent at the Havana, agreeably to the treaty, was to enable Don Victor Pintado, surveyor general of West Florida, and said to be of very loose morals, to fabricate certificates and grants to any that would pay him for it, and to keep secreted the old records that might lead to a discovery of the frauds. Since 1818, John Innerarity has obtained, as I am informed, two grants for ninety thousand arpents of land, located on the trace which I made in marching my troops from the Appalachicola to Pensacola in the year 1818, and on each side of said trace, and I am informed the grants bear date in 1817. There is now sufficient proof that these grants are antedated, if there were any tribunal legally to investigate them. I have again to suggest to the Government the necessity and propriety of appointing commissioners for the adjudication of the land claims in the Floridas, who should be men

By the Governor:

R. K. CALL, *Acting Secy of W. F.*

* Not dated; received 10th September, 1821.

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of good information, great integrity, and energy of character, or great frauds will be imposed upon our Government, and no land will be left by which to raise funds to meet the demands guarantied by the treaty to be paid to our citizens for spoiliations committed by Spain. It behooves Congress to pass a law that will enable these commissioners to detect the many frauds that will be attempted.

My report will give you full information of the perfidy attempted to be practised upon me by the barefaced violation of the pledge and agreement of Don Jose Callava, which will, I trust, recoil upon himself and nation. I was well apprized of Spanish treachery and duplicity; but it is to be regretted that, although my quartermaster was frequently advised to beware of them, he could not believe that any man whose shoulders were adorned with epaulettes could be so base.

I have the honor to acknowledge the receipt of your letter of the 27th June, in answer to mine of the 24th April, and the 1st, 7th, 19th, and 30th of May. I have only to observe, that Major Stanton chartered the transports with drafts drew by me on you, and that his duplicate receipt was enclosed to you under cover of my letter of the 16th day of July last. Colonel Butler's arrival will put it in my power to make up my accounts to the 1st of August, a duplicate of which I will forward by mail to you, and in due time will send on the account and vouchers by Dr. Bronaugh; when I will endeavor to send on a further report of the state of this country and East Florida, with all other information that I may conceive it necessary for my Government to be informed of.

I closed the organization of the civil government here on the 27th ultimo, and on the 28th despatched an express to St. Augustine with the ordinances I thought it necessary to adopt. I found nothing here but an *alcalde*, who was a half-pay officer, and who could not retain the office without resigning his Spanish military commission, and taking the necessary oath of office under our Government. This he refused to do; and I prevailed upon Judge Brackenridge to accept this appointment. He has given great satisfaction to all, and particularly to the Spanish population of this place; and I can, with truth, say that as much order at present prevails in Pensacola as I ever saw in any town.

My health has not been good; my labors have been arduous; and my exposure to the heat in camp for some days very injurious to my constitution; but I hope a little leisure will restore me.

I am, sir, &c.

ANDREW JACKSON,
Governor of the Floridas, &c.

P. S. I herewith enclose to you the instructions I had forwarded by Colonel Gadsden to Colonel Butler, which reached him but a few hours before the delivery of East Florida, and after the Colonel had closed his arrangements with Governor Coppinger; but I think it necessary to forward them, to show you at that early day the full understanding between Governor Callava and myself on the subject of the ordinance and the pro-

visions, &c., &c., &c., furnished by me, and to be referred to our respective Governments.

Yours, respectfully,

A. J.

Governor Jackson to the Secretary of State.

PENSACOLA, October 6, 1821.

SIR: I have received your letter of the 20th of August last, in answer to my several letters of the 16th, 17th, and 18th of July; which, you are pleased to inform me, you have transmitted to the President of the United States at Shannondale springs.

You request me to communicate to you, as early as possible, and as fully as may be in my power, such information as may serve to enlighten the inquiries of Congress on the different subjects which will require the attention of that body, in relation to the Floridas, at their next session.

After giving this important subject the attention which it merits, and referring to the various laws which you have been pleased to notice in your letter, I proceed to lay before you such information as I have been able to collect, and as I conceive to be within the scope of your inquiries, together with such reflections as suggest themselves to my mind.

As a subject of the first importance at the present juncture, I must refer you to my letter to the Secretary of War of the 17th instant. You will find, from that communication, that the Indians are spread over the whole of East, and part of West Florida. From the talk I have had with some of their chiefs, who visited me some time ago, and forwarded with the letter just mentioned, the places at present occupied by them have been ascertained with tolerable accuracy; that is, as far as the wandering habits of these people will permit them to be considered as occupying any place. For the greater part, these Indians consist of those who fled from the Upper Creeks in 1814, and, adhering to our enemies, continued at war with us until subdued in 1818; since which time they have remained in the Floridas. I am clearly of opinion that they ought to be ordered up to their old places of abode within the Creek nation, as they can have no rightful claim to lands or country within the Floridas. As to those who have been born and raised within the Floridas, it is absolutely necessary that they should be collected at one point, and secured in their settlements by act of Congress, in case they cannot be prevailed upon to unite with the Creek nation, to which they originally belonged: this latter course is very desirable for their own safety, as well as dictated to us by sound policy. They might be then completely protected by our Government; they may be provided for by annuity, or by such other mode as Congress, in their wisdom, may devise, adequate to their wants, and to induce them to embrace an agricultural life. Should the Indians prefer continuing within the Floridas, it will be expedient, for the safety of our frontier on the seacoast, to concentrate them on the Appalachian river, immediately adjoining the southern boundary of

Georgia and Alabama, on both sides of the river, and downward, so as to include a sufficient area for them. By this means, a sufficient white population may be interposed between them and the seaboard, and afford a settlement strong enough to cover and protect St. Augustine and Pensacola, as well as the peninsula of Florida.

By referring to the talk already mentioned, you will see that the difficulty of collecting the native Indians of the Floridas to the point on the Appalachicola will not be great. They are rejoiced to hear that a country will be allowed them to live in at all—such have been their apprehensions of their future fate since the transfer of their country to the United States, excited, no doubt, by mischievous advisers; and they will be still more so to find that they will be fostered and protected by the American Government. I have been long impressed with the absurdity of entering into treaties with the Indian tribes residing within our territorial limits, subject to our jurisdiction, and to such laws as Congress may pass for their security, happiness, and safety. I therefore respectfully recommend to the consideration of the President, whether it will not be proper to suggest to Congress the propriety of laying off a tract of country for them, and fixing a boundary between them and the settlement of the whites. It is well known to me, from experience and observation, that more general justice can be done the Indians by the legislative provisions of Congress than by treaties; the poor can be better taken care of, and more equal justice done the whole. I have constantly observed that, in Indian treaties, the chiefs are fattened, and the common Indians left to starve. Another, and a very important reason for adopting the policy I have recommended is, the great obstacle which will otherwise exist to the surveying and bringing the public lands into market; which, I presume, is intended to be done as speedily as possible.

The next subject which presents itself is the form of Territorial government proper to be adopted for the Floridas. This must be, in a great measure, adapted to the geographical form and to the character of the soils. The principal body of land capable of supporting a considerable population lies nearly east and west from the Choctawhatchie to the Alachua and St. John's, being about thirty miles in width by about three hundred in length, and partly in East, and partly in West Florida. The peninsula has been very little explored; but, from the best information I can obtain, I am inclined to think that, excepting immediately on the margin of the river St. John's, there is no extensive body of good land in any part of it, although it is possible that some good soil may be found in small quantities, in particular places; with these exceptions, the Floridas consist of pine woods and swamps. If the lower part of the peninsula were not, as I believe it to be, capable of supporting only a small population, the geographical shape of the Floridas would be extremely inconvenient; but as it is, there will only be a disproportion between the length and breadth, but not such as to render it unfit for our territorial

government. Pensacola is at one of these extremes, and St. Augustine at the other. The centre of the future population of the Floridas will be somewhere about the Suwanee, which is a fine river, and flows through a country of good land. The Okefonoco swamp, represented on the maps as near the heads of this river and of the Wachulla and St. Mark's, has no real existence, as was ascertained by me in 1818, when I marched through the country, and found the swamp, as represented, to be the Mickasuky pond, or lake, in the midst of a very healthy, fertile country, and which has been settling very rapidly. It may be well to observe, that the present maps only tend to deceive and mislead. Before Congress can enter upon the subject of a separation of the Floridas into two territories, the question of the location of the Indians must be settled. If they be concentrated at the point proposed, I would recommend that the Floridas be made but one territory; and I feel perfectly satisfied that, with such an arrangement, two or three years would give a sufficient population to the Floridas to form a State Government. Should a separation take place, this object will be long deferred, if not entirely defeated, and may produce the necessity of uniting West Florida to Alabama; which, if done, will, of course, occasion the annexation of East Florida to Georgia. The whole, if no subdivision take place, will, in a few years, constitute one of the most respectable States in this part of the Union; will exceed Louisiana in population, and rival it in wealth; but, if separated into two territories, the population of neither will suffice.

As far as I have been able to ascertain the wishes of the people of West Florida, they appear to be against the annexation to Alabama; and, from what I can learn, the same sentiment prevails in East Florida with respect to Georgia. The best interest of the Floridas, in my opinion, requires that they should be united under one territorial government, with an eye to their speedy admission into the Union as a State; by this means, a great saving will be made to the United States in [not] maintaining two distinct territorial governments for an uncertain period of time. The vicinity of the Suwanee river possesses many advantages for the location of the seat of government; it is equally central to the country east of the St. John's the Escambia, and Florida Point, over and above the advantages of being situated in the centre of a beautiful limestone country.

I am of opinion, taking into view the mixed population likely to exist here for some time, that the form of the territorial government ought to be simple and energetic. The territorial organization, in the first grade of government, adopted for the Louisiana Territory, with some alterations to suit local circumstances, may answer the purpose. The Spanish population forming but a small proportion, it is of very little importance to preserve any of their ancient laws and customs; the sooner they become American, the better.

The lands and the land titles of the Floridas require the most serious attention of Congress. It is a subject of the greatest importance to the

Government, and ought to receive the earliest consideration. Whilst the honest grantee may be protected in his rights, the greatest pains should be taken to exclude the numerous fraudulent and antedated claims, founded on no possession at the time of issuing the grant or concession, and without any original record or survey in West Florida that has yet been discovered. Nearly all these grants commence in 1817, by petition to the Governor for an order of survey or location; and in every instance the other parts of the title are completed from 1818 to 1824. For some years past, from all I can learn, this has been a trading business with the officers of the Spanish Government, both here and at St. Augustine; the stranger was accosted in the streets, and offered a grant for a doubloon, or some trifle. The petition only has the appearance of being original, but in most instances, in all probability, antedated; the other documents attached to it are only certified copies from the archives in the keeping of Pintado, the surveyor general at Havana, and who is even now making out official certificates of those papers to be evidence here—a kind of impudence and imposture at which Congress will no doubt be indignant. Before the year 1817 there was scarcely any such thing as a grant of land, excepting in the immediate vicinity of this place; and I presume that, in East Florida, the number was also very inconsiderable. They were made, I believe, merely with a view to the change of governments, and with no intention of settling. A provision similar to that contained in the 14th section of the act of the 20th December, 1803, declaring all incomplete grants not commenced before 1816, and not accompanied by settlement, as null and void, would at once put an end to the whole of the fraudulent grants. As to the enormous grants in different parts of the Floridas it is not necessary for me to speak; but I am pretty certain that, if all are sanctioned, it will take a country twice as large as the Floridas to gratify them. The extract of a letter from Mr. Brown, a gentleman of respectability from Baltimore, herewith enclosed, will show that a grant has been made since the 24th of January, 1818, by the Captain General of Cuba, to Arredondo, for a large tract in the Alachua plains, and which I have every reason to believe is fraudulent. I would, therefore, recommend that Congress should declare void all grants for land not founded on actual possession before the 22d February, 1816; and, in like manner, declaring void all grants not bottomed on a concession regularly made agreeably to the Spanish law, and possession taken and continued, and improvements made thereon, in strict conformity to the Spanish regulation; making such exceptions as will secure his settlement, &c., to the individual who shall have had five years' continued possession prior to the 24th day of January, 1818. In referring to the numerous acts of Congress for the adjustment of the land titles in the different Territories, I find very little that is applicable at present to the Floridas, excepting the act of the 21st April, 1806; the first section of which defines that no grant shall be valid unless founded on possession, com-

mencing with and continued under the concession by the proper officer of Spain. The greatest difficulty appears to be in the establishment of a board of commissioners. A great variety of plans have been fallen upon. The first, consisting of three commissioners, secretary, register, and recorder, was found too expensive and dilatory; the last, adopted for the country east of the Mississippi, was too simple and too cheap; two districts were formed, and a single commissioner appointed to each, with a clerk, who was expected to discharge all the functions of recorder and translator. This may have answered a very good purpose in Mississippi and Alabama, but much more difficult and important legal questions will arise here; and I do not hesitate to say, that the commissioners for the settlement of the land titles ought to be men of the first legal talents, of strict integrity, and, I would add, as an essential requisite, possessing no landed interest in the Floridas. Persons will be recommended from this place who ought not to be appointed. There are but few titles which are clear of dispute; and where a man has bought a title under disputed circumstances, it is very natural that self-interest, and the interest of his friends, will have great weight in his mind, and precedents will be established to insure their validity. I do not go too far when I say that no person should be appointed who has bought a land claim in the Floridas. It cannot be too strongly impressed on the mind of the President, that men of talents and strict integrity, who have no interest in landed property in the Floridas, should be selected as commissioners to settle the land titles.

It is of great importance, that the judiciary should be filled by men of first rate legal talents and unimpeached integrity, as much will depend upon those who are employed to lay the foundation of any system. Respectability will be given to the Government by appointing men possessing weight of character; they ought to be well acquainted with the civil law, and the maritime law, as well as the common law. The same court might have chancery powers given to it, on the plan of the circuit courts of the United States, and I think ought to be required to hold its terms more frequently than has been usual, or to hold adjourned courts from time to time, as business may require. I consider the judiciary as by far the most important branch of the territorial government: persons should be selected whose unexceptionable character will be a pledge that they will steer clear of the influence of corruption of any kind, or of partiality. To the high character of the distributors of justice from the bench will be attached that confidence, so indispensable in all well-regulated governments. It is the purity of this branch of the administration which secures to the citizen the peaceful enjoyment of his constitutional rights and privileges, and awards a speedy punishment to those who violate the law and trample upon the rights of others.

I forward you printed copies of the ordinances, as they may perhaps contain some things deserving of being permanently incorporated in the act of Congress organizing the territorial government.

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With high consideration and respect, I have the honor to be, sir, your most obedient servant,
ANDREW JACKSON,
Governor of the Floridas, &c.

P. S. I am just on the eve of departure for my residence in Tennessee, and will necessarily be absent from this Territory some time, but will make such arrangements as will enable me to return on the shortest notice, in case any thing should occur to render my presence necessary. W. G. D. Worthington, Esq., and Colonel George Walton, are respectively charged with the powers formerly exercised by the Governors of East and West Florida. I enclose a copy of an address (in a newspaper) to the inhabitants of the Floridas, which I thought proper to publish previous to my leaving the country.

ANDREW JACKSON.

Hon. J. Q. ADAMS, *Sec'y of State.*

PENSACOLA, Sept. 17, 1821.

SIR: By last mail I received, enclosed to me by Captain Bell, commanding and executing the civil government at St. Augustine, the unauthorized talk held by Horatio Dexter and Mr. Wanton with what they are pleased to call the King of the Seminoles, and fifty-four of the Indians present. It appears that this talk with the Seminoles has been forwarded to some of the Departments, (whether to you, is not mentioned;) and were it not for its novelty, and the object, which appears obvious, I should not have troubled you with the transmission of such a paper, or with any comments upon it. The object of this unauthorized proceeding appears to me evidently to be, first, on the part of Dexter and Wanton, to obtrude themselves on the notice of the Government; and, secondly, to impress on the minds of the Indians their absolute right to the country. I have written to Mr. Worthington to seize these self-made Indian agents, and detain them until the instructions of the Government can be had. And this talk proves the necessity of Congress taking the subject up, and by law prescribing bounds to the Seminoles.

The exposed situation of the Floridas imperiously demands that their frontier upon the coast (if it may be so expressed) should be immediately inhabited by our white citizens. The Indians, at present, are scattered from Florida point to the Choctawhatchie. If you attempt to concentrate or consolidate them at the Mickasuky pond, or Old Towns, you offend those that are situated on the Suwanee, in the Alachua plains, or on the peninsula. As they have been continually at war with the United States, until conquered in the Spring of 1818, when they were ordered up above the Florida line, where the nation to which they originally belonged was willing to receive them, such a measure would reconcile all. This is what they expected, and what good policy and the safety of the Georgia frontier required. But this is what these unauthorized Indian agents, who offer their services to both parties, as I conceive, wish to prevent, and on which the Government ought

seriously to reflect. The Government cannot turn the torrent of emigration to the Floridas without great expense; good policy and the safety of the frontier, in my opinion, require that the Government should promote emigration to this country, and hasten its admission as a State into the Union.

If the Indians be removed within the limits of the country assigned to the Creek nation, (of which the Seminoles are a part,) this object, on which the security of the southern borders so much depends, will be speedily attained. With what pretence of justice can those who fled from the Creek nation, and kept up an exterminating war on our frontier, until crushed by the arm of our Government in 1818, set up such claims? And is the safety of our frontier to be jeopardized by the complaints of a few Indians, excited by would-be Indian agents, and Indian treaty-makers, who compose flowery talks for them, and put words into their mouths they never conceived; and make Indian chiefs to suit their own views, and who were never heard of as such before? The greater part of the Indians now in the Floridas consist of those who fled in the manner already mentioned; and why should we hesitate to order them up at once, when the Executive Government, with the aid of Congress, can do ample justice by law, if necessary, to those who deserve it, by giving such equivalent as will enable them to settle their families in the upper country, and to cultivate their farms? Unless the Indians be consolidated at one point, where is the country that can be brought into market, from which the five millions are to be raised to meet the claims of our citizens under the late treaty with Spain?

I received, by last mail, a letter from Mr. Perrieres of the 14th May last, and another of the 10th of July. By the latter, he informs me he is about to proceed to the Havana, to inquire whether any treaties have been made with the Indians by Spain. Whether this be in pursuance of instructions from you, I am not advised; but surely the Government of the United States is competent to regulate the concerns of these Indians, and mete to them every justice to which they are entitled, and to make such regulations as the safety of the frontier may require, without reference to any treaty with Spain; and particularly when it is notorious that the greater part of those Indians, as already observed, fled from the Creek nation in 1813 and 1814, adhered to our enemies, and continued their warfare under the excitement of British agents and Spanish incendiaries, until the United States, from self-defence, were compelled to chastise and conquer them.

I have made inquiries for a proper character duly qualified to act as interpreter for Mr. Perrieres. It requires, as Mr. Perrieres does not speak English, that that interpreter should speak the English, Indian, and French languages. Such a one is difficult to be found; in short, I can hear of none but Mr. Hambly, and for him I have sent; but am informed he is with the Creek agent. I advised you in my last that the indisposition of Mrs. J. would compel me to travel with her, as

soon as her health would permit, out of, this southern climate; and this would prevent me from holding a treaty with the Indians; although, to speak candidly, I am determined never to be concerned in another. I do think it not only useless, but absurd, when Congress have the power to regulate all Indian concerns by act of Congress, and the arm of the Government is sufficiently strong to carry such regulations into effect. More general justice can be done to the Indians in this way than by treaty. When the policy of treating with the Indians was first adopted, it was at a time when we found them thrown upon our hands by the treaty of 1783, without any provision being made for them; and at that time they were numerous and hostile, while the arm of the Government was too weak to enforce such regulations as justice and good policy required; hence the necessity of managing them by treaties. But this has passed away; the arm of Government is sufficient to protect them, and to carry into execution any measures called for by justice to them, or by the safety of our borders. Hence the absurdity of holding treaties with Indian tribes within our territorial limits, subject to our sovereignty and municipal regulations, and to whom, by legislation, every justice can be done, and the safety of our southern frontier perfectly secured.

These were some of the reasons that weighed upon my mind for addressing the Government on this subject the last Spring, in hopes that I would be authorized by the Executive to have carried into full effect the orders I had given them in 1818, and which had been given after consulting the chiefs of the Creek nation, and finding it to be their wish and that they were willing to receive them. At that time many of them went up, and, I am informed, are now living happily there. I pray you to look at the map of the Floridas, and you will at one glance see that to locate them in the Floridas will greatly weaken your frontier, when, by removing them, you clear the southern borders of all Indians.

Since writing the foregoing, I have made inquiry respecting Dexter and Wanton, and am informed by a gentleman on whom, from his character and standing in society, every reliance can be placed, that those persons are profligate characters, and are and have been engaged in forming a settlement in the Alachua plains, under the grant of the Duke de Alagon, and it is said have obtained a grant from the Indians, by deed duly executed before witnesses, relinquishing to them all Indian claim to a large tract of country. From the bare reading of Dexter's letter, and the Indian talk, I was impressed with a belief that Messrs. Dexter and Wanton were just such characters as above described, and in whom no confidence ought to be placed, and who ought, as I have directed, to be sent beyond the Floridas. Nothing more clearly proves the imperious necessity of ordering those deluded Indians to the upper country, where they can be protected and made happy by the bounty and humanity of our Government. I am, sir, &c. A. JACKSON.

Hon. J. C. CALHOUN.

ST. AUGUSTINE, August 14, 1821.

SIR: I have the honor to inform you that, on the 7th instant, the acting collector of this port seized the English schooner Oliander, Thomas Crowder, master, from Nassau, which had entered this port in violation of the navigation laws of the United States; having on board a quantity of salt, and four negroes registered as slaves, and shipped as seamen, in addition to two white men—a number too great for so small a vessel. The slaves are held in safe-keeping within the fort, and the circumstances reported to the Secretary of the Treasury.

On the 9th instant, J. S. Beers, Esq. exhibited to me his letter of appointment as postmaster for this place, and informed me that he had complied with the conditions, by giving bonds. He has entered upon the duties of his office, and the mail is carried by contract from this to St. Mary's, once a week, by the General Government.

On the 11th instant, J. Rodman, Esq., appointed collector of this port and district by the President of the United States, arrived, and produced satisfactory evidence of his appointment, and, having executed the necessary bonds, has commenced the discharge of his official duties. On the same evening, we were informed that Mr. Worthington, secretary of this province, had sailed, with his family, from Charleston, bound for this place, on the 5th instant. On the 9th, a vessel was seen off the harbor, which, from the wind blowing heavy at the time, was not able to enter the harbor, and passed off to the south. We are daily expecting him. Yesterday, Captain Hanham arrived, bearer of despatches from your Excellency to Mr. Worthington, which are in my possession; and, as all persons in the province appear to be reconciled to the powers that be, I have thought proper not to promulgate the system of organization of civil and judicial officers directed to be carried into effect, as it will be better done by Mr. Worthington, and have a better effect, for from new officers new regulations will be expected. The commission for Mr. Forbes remains, for the same reason.

I enclose for your information a copy of a letter from Mr. Dexter, accompanied by a talk held with the Seminoles, who are, at this time, in a state of great uncertainty of what will be the course Government will pursue towards them. A person qualified and acquainted with the Indian character could make any reasonable terms with them; but, if there should be much greater delay, there will be a war between them and the Creeks; which, if sanctioned by Government, must end in the extermination of the Seminoles, or will drive them to great excesses on the inhabitants here; and will prevent, during the time, any white person from travelling in the interior of the country. They have already turned back persons who were going to survey lands. The sub-agent is of no use to them or the Government, from a want of knowledge of Indian character, and the policy of our Government towards them. Our troops are healthy.

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Most respectfully, I am, sir, your obedient servant,
JNO. R. BELL,

Capt. Com'g and Prov'l Sec'y of E. F.

Maj. Gen. ANDREW JACKSON,
Governor of the Floridas.

ST. AUGUSTINE, August 12, 1821.

SIR: The enclosed is transcribed from a pencil copy, accidentally retained for my private satisfaction, and may, possibly, deviate slightly in language from the original, placed in the hands of a friend in South Carolina to be transmitted to the proper department, and which, I hope, has long since reached its destination.

I have been extremely free and unreserved in my communication to you on this subject; and if my long acquaintance with and residence among the Indians, and the confidence they repose in me, can be useful to your Government, I trust it is needless to add that you may command my services in any manner, or to any extent. I do not assume too much in undertaking the same for Mr. Wanton. I am, &c.

HORATIO S. DEXTER.

Capt. JNO. R. BELL,
Com'g and Prov'l Sec'y of E. F.

BROTHERS: We have assembled to consult upon our situation with regard to our new brothers. We have heard that the King of Spain has sold all Florida to the Americans, and that the country of the Seminoles is included in the sale. Scarcely two years have passed away since we were informed that the whole of the same country was sold by the King of Spain to three of his warriors. Brothers, how is this? The King first sells a country to one man, and then sells the same to another; and, in both cases, without the consent of the real proprietors and inhabitants. The whole of this is a mystery to us, which we cannot understand. However, we are a foolish people, and look to you for an explanation of these things; and we ask you to tell us which sale will be good, (with our consent,) or if the King can sell our country as often as he pleases, without our consent? For more than a hundred summers has the Seminole warrior reposed in the cool shade of his live oak. The sun of a hundred winters has risen upon his ardent chase of the bear and deer; and no one has questioned his right, or disputed his range. How, then, can the Spaniards sell the country which they never dared to tread without our leave? We have a treaty, now in force, made with the English in the days of Governor Tonyng, by which we relinquished to them the country east of St. John's and the head of the St. Mary's and north of the Mosquito. This is all the English ever claimed, or all the Spaniards or Americans ever could claim, according to our notions of justice. Brothers: we wish you to tell us whether the King of Spain has sold to the Americans our cattle and negroes, as well as our lands? Brothers: we wish you to tell us whether the big man, the father of the American people, is determined to deprive us of our lands, and give them to his

own children? We have heard that he is a great warrior, and a good man, and would not suffer the King of Spain to sell America to another people. How, then, can he suppose we ought to submit to such an injury? The Great Spirit, the master of breath, gave one country to the Spaniards, another to the Americans, and another to us; we ought all to respect each other's rights, though our customs be different, and smoke the pipe in peace with each other. The Americans live in towns, where more than a thousand people run about, in a great hurry, over a small piece of land. The Seminole is of a wild and scattered race, that swims rivers, runs and jumps over logs, with the rifle in his hand, in pursuit of food—the whooping crane that builds its nest at night far from the spot where it dashed the dew from the grass and the flower in the morning. The Great Spirit is the author of this difference, and has given to the one as good a title to his hunting grounds as he has to the others their towns.

We cannot understand how the King, on the other side of the big water, can sell our country; or a big man, on this side, purchase it without our consent. As for your rights among us, in land, negroes, and cattle, they shall always be respected; but we wish you to understand we are desirous of living in quiet possession of our lands, and in peace with our new brothers, the Americans; and we think they ought to have the lands east of St. John's to the Spring Garden, and from the Mosquito north, but nothing more. The whole country was ours long ago, and we have parted only with a small portion. Brothers: we wish you to explain these things, and tell us how we shall act in the present circumstance; and hope the Americans will not treat us as the Spaniards have done; and inform us, also, when Captain Jackson will be here.

Reply of E. Wanton and H. S. Dexter.

We have listened to your talk with great patience, and will explain to you our thoughts on the subject, from an open heart and single tongue. The story you have heard is no lie. The Spanish King has twice sold your country: first, as you have long since been informed, to three of his warriors; and, lately, to the big man at Washington. As to the mode and manner the sale was effected, in both cases it was by signing the words "El Rey" on the corner of a sheet of paper. Which of these transactions may be the best, we do not pretend to judge. That both parties received titles from the King of Spain, is very well ascertained; and that both will make the most of their bargain, there is very little reason to doubt. It will be, therefore, necessary, if you desire to retain your lands, to take measures immediately. The great man at Washington, the President of the United States, was, probably, not well informed of your rights when he purchased Florida from the Spaniards; and, if they told him a lie, and made him believe they owned your lands, he may still change his opinion, and do you justice at the last. We advise you to send a talk to him; let it be a talk of peace; setting forth your rights, and

Transactions in Florida—General Jackson.

showing your desire to live on good terms with the Americans. We advise you, also, to appoint some intelligent and faithful white man to represent your rights, and convey your wishes to the President. Should the President still not yield to the justice of your claims, but desire your lands, he will then either offer you a sum of money or land elsewhere. He may also consent to put his mark, with a pen, to paper, recognising your boundary lines established by Governor Tonyng, or some other boundary. The President has not purchased your negroes and cattle; do not give credit to such a story; it originates in a plan to cheat your people out of their property. We suppose that Captain Jackson will be in St. Augustine in about two moons; but his arrival ought not to give you uneasiness, as, we suppose, he means not to injure you. It is not in our power to inform you of the policy our father at Washington intends to pursue towards the Seminoles. We ought, however, to expect every thing favorable from a great Government, professing to act upon just principles, and motives friendly to the red people.

We, however, advise you to make known your rights and wishes to the President, and propose to settle all your differences by a treaty. In this business we will cheerfully give you all the assistance in our power.

Answer.

BROTHERS: We have listened to your talk, and approve of your advice. You have always told us the truth, and, therefore, we rely on your opinion. We give you the power to send a talk to the big man at Washington; and, also, to make a treaty with him, or appoint a good man to do so. Let it, however, be understood that we do not wish to dispose of our country, nor to be transported among strange tribes of Indians who may injure us.

The above is a talk delivered to E. Wanton and Horatio S. Dexter, on the 24th May, 1821, by Miconopy, king of the Seminole Indians, commonly called the Pond Governor; with the answer of E. Wanton and H. S. Dexter to the same. Fifty-four of the principal Indians present.

PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE SEVENTEENTH CONGRESS, BEGUN AND
HELD AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 3, 1821.

An Act authorizing the transmission of certain documents free of postage.

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Members of Congress, the Secretary of the Senate, and the Clerk of the House of Representatives, be, and they are hereby, authorized to transmit, free of postage, to any post office within the United States, or the territories thereof, any documents which have been, or may be, printed by order of either House.

Approved, December 19, 1821.

An Act reviving and extending the time allowed for the redemption of land sold for direct taxes in certain cases.

Be it enacted, &c., That the time allowed for the redemption of lands which have been, or may be, sold for the non-payment of taxes under the several acts, passed the second day of August, one thousand eight hundred and thirteen, the ninth day of January, one thousand eight hundred and fifteen, and the fifth day of March, one thousand eight hundred and sixteen, for laying and collecting a direct tax within the United States, so far as the same have been purchased for, and in behalf of, the United States, be revived and extended for the term of one year from the end of the present session of Congress: *Provided,* That, on such redemption, interest shall be paid, at the rate of twenty per centum per annum, on the taxes aforesaid, and on the additions of twenty per centum chargeable thereon, and the right of redemption shall inure, as well to the heirs and assignees of the land so purchased on behalf of the United States, as to the original owners thereof.

Approved, February 4, 1822.

An Act to revive and continue in force an act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war."

Be it enacted, &c., That the act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," passed on the tenth day of April, one thousand eight hundred and six, and limited, as in said act declared, to the term of six years, and afterwards revived and continued in force for and during the

term of six years, by an act, entitled "An act to revive and continue in force 'An act to provide for persons who were disabled by known wounds received in the Revolutionary war, and for other purposes,'" passed on the twenty-fifth day of April, in the year one thousand eight hundred and twelve, and afterwards revived and continued in force for the term of one year, by an act, entitled "An act to revive and continue in force an act, entitled 'An act to provide for persons who were disabled by known wounds received in the Revolutionary war,'" passed on the fifteenth day of May, in the year one thousand eight hundred and twenty, shall be, and the said act is hereby, revived and continued in full force and effect, for and during the term of six years from and after the passing of this act, and from thence unto the end of the next session of Congress: *Provided,* That any evidence which has been taken to support any claim of any person disabled in the Revolutionary war, under the authority of the "Act of the fifteenth of May, one thousand eight hundred and twenty," reviving and continuing in force, for one year, "An act to provide for persons who were disabled by known wounds received in the Revolutionary war," shall be received and acted upon by the Secretary of War, in the same manner as if said act was still in force and had not expired: *And provided, also,* That this act, and any thing contained in the act hereby revived and continued in force, shall not be construed to repeal or make void the fourth section of an act, entitled "An act concerning invalid pensions," passed the third of March, one thousand eight hundred and nineteen; and the said fourth section of the said last mentioned act shall be, and the same is hereby declared to be, and to continue to be in full force and effect; any thing in the said act, hereby revived and continued in force, to the contrary notwithstanding.

SEC. 2. *And be it further enacted,* That the right any person now has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony pursuant to the act hereby revived and continued in force.

SEC. 3. *And be it further enacted,* That the agents for the payment of pensions to invalid pensioners of the United States, shall, in future, be required to give bonds, with two or more sureties, to be approved by the Secretary of the Department of War, in such penalty as he shall direct, for the

faithful discharge of the duties confided to them respectively.

Approved, February 4, 1822.

An Act making partial appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and twenty-two.

Be it enacted, &c., That the following sums be, and they are hereby appropriated, to the objects herein specified, to wit: for the pay and subsistence of the officers, and pay of the seamen, one hundred thousand dollars; for provisions, twenty thousand dollars; for repairs, twenty thousand dollars; for contingent expenses, twenty thousand dollars.

SEC. 2. *And be it further enacted,* That the several appropriations herein before made, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved, February 19, 1822.

An Act authorizing the transfer of certain certificates of the funded debt of the United States.

Be it enacted, &c., That the certificates of the funded debt of the United States, which, upon the assumption of the debts of the several creditor States, were issued in their favor, respectively, be, and hereby are, made transferrable, according to the rules and forms instituted for the purpose of transfers of the public debt.

Approved, February 19, 1822.

An Act for the preservation of the timber of the United States in Florida.

Be it enacted, &c., That the President of the United States be, and hereby is, authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of, the timber of the United States in Florida; and, also, to prevent the transportation or carrying away such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida.

Approved, February 23, 1822.

An Act for the apportionment of Representatives among the several States, according to the Fourth Census.

Be it enacted, &c., That, from and after the third day of March, one thousand eight hundred and twenty-three, the House of Representatives shall be composed of members elected agreeably to a ratio of one Representative for every forty thousand persons in each State, computed according to the rule prescribed by the Constitution of the United States, that is to say: within the State of Maine, seven; within the State of New Hampshire, six; within the State of Massachusetts, thirteen; within the State of Rhode Island, two; within the State of Connecticut, six; within the

State of Vermont, five; within the State of New York, thirty-four; within the State of New Jersey, six; within the State of Pennsylvania, twenty-six; within the State of Delaware, one; within the State of Maryland, nine; within the State of Virginia, twenty-two; within the State of North Carolina, thirteen; within the State of South Carolina, nine; within the State of Georgia, seven; within the State of Alabama, two; within the State of Mississippi, one; within the State of Louisiana, three; within the State of Tennessee, nine; within the State of Kentucky, twelve; within the State of Ohio, fourteen; within the State of Indiana, three; within the State of Illinois, one; and within the State of Missouri, one.

SEC. 2. *And be it further enacted,* That, as the returns of the Marshal of the State of Alabama are not complete, in consequence of the death of the former Marshal, who commenced the enumeration in said State, nothing in this act contained shall be construed to prevent the State of Alabama from having three Representatives, if it shall be made to appear to Congress, at the next session, that the said State, at the time of passing this act, would have been entitled to that number, according to its population and the ratio hereby established, if the said returns had been complete.

Approved, March 7, 1822.

An Act making appropriations for the Military Service of the United States for the year one thousand eight hundred and twenty-two, and towards the service of the year one thousand eight hundred and twenty-three.

Be it enacted, &c., That the following sums be, and the same are hereby, respectively appropriated for the military service of the United States for the year one thousand eight hundred and twenty-two, to wit:

For the pay of the Army and subsistence of the officers, nine hundred and eighty-two thousand nine hundred and seventeen dollars, including the sum of eighty-six thousand nine hundred dollars, for the pay and subsistence of the officers and cadets belonging to the Military Academy at West Point.

For subsistence, in addition to an unexpended balance of one hundred and twenty thousand eight hundred and sixty-three dollars and thirty-seven cents, the sum of one hundred and seventy-four thousand seven hundred and ninety-three dollars and sixty-three cents.

For forage for officers, in addition to an unexpended balance of eleven thousand eight hundred and sixty-nine dollars, the sum of five thousand six hundred and seventy-five dollars.

For the medical and hospital department, in addition to an unexpended balance of twelve thousand one hundred and thirty-three dollars and forty-four cents, the sum of twenty-two thousand eight hundred and fifty-four dollars and sixty-six cents.

For the purchasing department, in addition to an unexpended balance of fifty-five thousand and eighty-nine dollars and forty cents, the sum of

seventy-three thousand four hundred and thirty-three dollars; and for the purchase of woollens for the year one thousand eight hundred and twenty-three, the sum of seventy-five thousand dollars.

For the Quartermaster General's department, for regular supplies, transportation, rent, and repairs, postage, courts martial, fuel, and contingencies, and for extra pay to soldiers employed in the erection and repairs of barracks and other labor, three hundred and thirteen thousand two hundred and seventeen dollars.

For the contingencies of the Army, twenty thousand dollars.

For Quartermaster's supplies, transportation, mathematical instruments, books, and stationery, for the Military Academy, thirteen thousand nine hundred and seventy-nine dollars.

For the pensions of the invalids, to the commutation pensioners, and to the widows and orphans, in addition to an unexpended balance of twenty-seven thousand eight hundred and ninety-one dollars and five cents, the sum of three hundred and seventeen thousand one hundred and eight dollars.

For pensions to the Revolutionary pensioners of the United States, including a deficiency in the appropriation of last year of four hundred and fifty-one thousand eight hundred and thirty-six dollars and fifty-seven cents, and, in addition to the unexpended balance of one hundred and ninety-one thousand three hundred and forty-five dollars and thirty-six cents, of the year one thousand eight hundred and twenty, the sum of one million six hundred and forty-two thousand five hundred and ninety-one dollars.

For the payment of a balance due the State of Maryland of moneys paid by that State to the United States, as the purchase money of public arms, which have not been fully supplied, the sum of five hundred and twenty-seven dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid out of any money in the Treasury, not otherwise appropriated.

Approved, March 15, 1822.

An Act to provide for the due execution of the laws of the United States, within the State of Missouri, and for the establishment of a district court therein.

Be it enacted, &c., That all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said State of Missouri, as elsewhere within the United States.

SEC. 2. *And be it further enacted*, That the said State of Missouri shall be one district, and be called the Missouri district; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge; he shall hold, at the seat of government of the said State, three sessions, annually, the first to commence on the first Monday in June next, and the other two sessions, progressively, on the like Monday in every fourth calendar month afterwards; and he shall, in all things,

have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act, entitled "An act to establish the judicial courts of the United States," and an act, entitled "An act, in addition to the act, entitled an act to establish the judicial courts of the United States," approved the second day of March, one thousand seven hundred and ninety-three, and the acts supplementary thereto. The said judge shall appoint a clerk for the said district, who shall reside and keep the records of the court at the place of holding the same, and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is entitled for similar services: *Provided*, That, until the government shall be removed to the permanent seat fixed, or to be fixed, by the said State, the said court shall be held at the town of St. Louis.

SEC. 3. *And be it further enacted*, That there shall be allowed and paid the said judge of the said district court, the annual compensation of twelve hundred dollars; to commence from the date of his appointment, to be paid quarter-yearly, at the Treasury of the United States.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said district a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars annually, as a full compensation for all extra services.

SEC. 5. *And be it further enacted*, That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are provided for, and prescribed to, marshals in other districts, and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 6. *And be it further enacted*, That all causes pending in the State courts, at the passage of this act, which, by law, were transferrable to the United States courts, may be so removed under the rules governing such removals, as soon after the passage of this act as may be reasonably practicable.

Approved, March 16, 1822.

An Act for the establishment of a Territorial Government in Florida.

Be it enacted, &c., That all that territory ceded by Spain to the United States, known by the name of East and West Florida, shall constitute a Territory of the United States, under the name of the Territory of Florida, the government whereof shall be organized and administered as follows:

SEC. 2. *And be it further enacted*, That the Executive power shall be vested in a Governor, who shall reside in the said Territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said Territory, and be, ex officio, superintendent of Indian affairs, and shall have power to

grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known, and to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law; he shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That a secretary of the Territory shall also be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States, whose duty it shall be, under the direction of the Governor, to record and preserve all the papers and proceedings of the Executive, and all the acts of the Governor and Legislative Council, and transmit authentic copies of the proceedings of the Governor, in his Executive department, every six months, to the President of the United States.

SEC. 4. *And be it further enacted*, That, in case of the death, removal, resignation, or necessary absence of the Governor of the said Territory, the secretary thereof shall be, and he is hereby authorized and required, to execute all the powers, and perform all the duties, of the Governor, during the vacancy occasioned by the removal, resignation, or necessary absence of the said Governor.

SEC. 5. *And be it further enacted*, That the legislative power shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed annually by the President of the United States, by and with the advice and consent of the Senate, from among the citizens of the United States residing there. The Governor, by and with the advice and consent of the said Legislative Council, or a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. The legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burdened with those of another. The Governor shall publish, throughout the said Territory, all the laws which shall be made, and shall, on or before the first Monday in December in each year, report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall thenceforth be of no force. The Governor and Legislative Council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to lands within the said Territory; the Legislative Council shall hold a session once in each year, commencing its first session on the second Monday of June next, at Pensacola, and continue in session not longer than two months; and thereafter, on the first Monday in May, in each and every year, but shall not continue longer

in session than four weeks, to be held at such place in said Territory as the Governor and Council shall direct. It shall be the duty of the Governor to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said Territory, and communicate the same, from time to time, to the President of the United States.

SEC. 6. *And be it further enacted*, That the judicial power shall be vested in two superior courts, and in such inferior courts and justices of the peace as the Legislative Council of the Territory may, from time to time, establish. There shall be a superior court for that part of the Territory known as East Florida, to consist of one judge; he shall hold a court on the first Mondays in January, April, July, and October, in each year, at St. Augustine, and at such other times and places as the Legislative Council shall direct. There shall be a superior court for that part of the Territory known as West Florida, to consist of one judge; he shall hold a court at Pensacola on the first Mondays in January, April, July, and October, in each year, and at such other times and places as the Legislative Council shall direct. Within its limits, herein described, each court shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all capital cases, and original jurisdiction in all civil cases of the value of one hundred dollars, arising under, and cognizable by, the laws of the Territory now in force therein, or which may, at any time, be enacted by the Legislative Council thereof. Each judge shall appoint a clerk for his respective court, who shall reside, respectively, at St. Augustine and Pensacola, and they shall keep the records there. Each clerk shall receive for his services, in all cases arising under the Territorial laws, such fees as may be established by the Legislative Council.

SEC. 7. *And be it further enacted*, That each of the said superior courts shall, moreover, have and exercise the same jurisdiction within its limits, in all cases arising under the laws and Constitution of the United States, which, by an act to establish the judicial power of the United States, approved the twenty-fourth day of September, one thousand seven hundred and eighty-nine; and an act in addition to the act, entitled "An act to establish the judicial courts of the United States," approved the second day of March, one thousand seven hundred and ninety-three, was vested in the court of the Kentucky district. And writs of error and appeal from the decisions in the said superior courts, authorized by this section of this act, shall be made to the Supreme Court of the United States, in the same cases, and under the same regulations, as from the circuit courts of the United States. The clerks, respectively, shall keep the records at the places where the courts are held, and shall receive, in all cases arising under the laws and Constitution of the United States, the same fees which the clerk of the Kentucky district received for similar services, whilst that court exercised the powers of the circuit and district courts. There shall be appointed, in the said Territory, two persons learned in the law, to act as attorneys for

the United States as well as for the Territory; one for that part of the Territory known as East Florida, the other for that part of the Territory known as West Florida. To each of whom, in addition to his stated fees, shall be paid, annually, two hundred dollars, as a full compensation for all extra services. There shall also be appointed two marshals, one for each of the said superior courts, who shall, each, perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, to which marshals in other districts are entitled for similar services; and shall, in addition, be paid the sum of two hundred dollars, annually, as a compensation for all extra services.

SEC. 8. *And be it further enacted*, That the Governor, Secretary, Judges of the Superior Courts, District Attorneys, Marshals, and all general officers of the militia, shall be appointed by the President of the United States, by and with the advice and consent of the Senate. All judicial officers shall hold their offices for the term of four years, and no longer. The Governor, Secretary, Judges, members of the Legislative Council, Justices of the Peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the Governor, before the President of the United States, or before a judge of the supreme or district court of the United States, or before such other person as the President of the United States shall authorize to administer the same; the Secretary, Judges, and members of the Legislative Council, before the Governor; and all other officers, before such persons as the Governor shall direct. The Governor shall receive an annual salary of two thousand five hundred dollars; the Secretary one thousand five hundred dollars; and the Judges, of one thousand five hundred dollars each, to be paid quarter-yearly, out of the Treasury of the United States. The members of the Legislative Council shall receive three dollars each, per day, during their attendance in council, and three dollars for every twenty miles in going to, and returning from, any meeting of the Legislative Council, once in each session, and no more. The members of the Legislative Council shall be privileged from arrest, except in cases of treason, felony, and breach of the peace, during their going to, attendance at, and returning from, each session of said Council.

SEC. 9. *And be it further enacted*, That the following acts, that is to say:

"An act for the punishment of certain crimes against the United States, approved April thirtieth, one thousand seven hundred and ninety, and all acts in addition, or supplementary thereto, which are now in force:"

"An act to provide for the punishment of crimes and offences committed within the Indian boundaries, approved March third, one thousand eight hundred and seventeen:"

"An act in addition to the act for the punishment of certain crimes against the United States,

and to repeal the acts therein mentioned, approved April twentieth, one thousand eight hundred and eighteen:"

"An act for the punishment of crimes therein specified, approved January thirtieth, one thousand seven hundred and ninety-nine:"

"An act respecting fugitives from justice, and persons escaping from the service of their masters, approved twelfth February, one thousand seven hundred and ninety-three:"

"An act to prohibit the carrying on the slave trade from the United States to any foreign place or country, approved March twenty-second, one thousand seven hundred and ninety-nine."

"An act in addition to the act, entitled 'An act to prohibit the carrying on the slave trade from the United States to any foreign place or country,' approved May tenth, one thousand eight hundred:"

"The act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, approved March second, one thousand eight hundred and seven:"

"An act to prevent settlements being made on lands ceded to the United States, until authorized by law, approved March third, one thousand eight hundred and seven:"

"An act in addition to 'An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same, approved April twentieth, one thousand eight hundred and eighteen:"

"An act in addition to the acts prohibiting the slave trade, approved March third, one thousand eight hundred and nineteen:"

"An act to establish the post office of the United States:"

"An act further to alter and establish certain post roads, and for the more secure carriage of the mail of the United States:"

"An act for the more general promulgation of the laws of the United States:"

"An act in addition to an act, entitled 'An act for the more general promulgation of the laws of the United States:'"

"An act to provide for the publication of the laws of the United States, and for other purposes:"

"An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose:"

"An act to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patents:"

"An act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the time therein mentioned:"

"The act supplementary thereto, and for extend-

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ing the benefits thereof to the arts of designing, engraving, and etching historical and other prints:"

"An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in any other State."

"An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated so as to take effect in any other State:'"

"An act for establishing trading houses with the Indian tribes, and the several acts continuing the same:

"An act making provision relative to rations for Indians, and their visits to the Seat of Government:"

"And the laws of the United States relating to the revenue and its collection, subject to the modification stipulated by the fifteenth article of the treaty, of the twenty second February, one thousand eight hundred and nine, in favor of Spanish vessels and their cargoes, and all other public laws of the United States, which are not repugnant to the provisions of this act, shall extend to, and have full force and effect in, the Territory aforesaid."

SEC. 10. *And be it further enacted*, That, to the end that the inhabitants may be protected in their liberty, property, and the exercise of their religion, no law shall ever be valid which shall impair, or in any way restrain, the freedom of religious opinions, professions, or worship. They shall be entitled to the benefit of the writ of habeas corpus. They shall be bailable, in all cases, except for capital offences, where the proof is evident or the presumption great. All fines shall be moderate and proportioned to the offence; and excessive bail shall not be required, nor cruel or unusual punishments inflicted. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed; nor shall private property be taken for public uses, without just compensation.

SEC. 11. *And be it further enacted*, That all free male white persons, who are house-keepers, and who shall have resided one year, at least, in the said Territory, shall be qualified to act as grand and petit jurors, in the courts of the said Territory; and they shall, until the Legislature thereof shall otherwise direct, be selected in such manner as the judges of the said court shall respectively prescribe, so as to be most conducive to an impartial trial, and to be least burdensome to the inhabitants of the said Territory.

SEC. 12. *And be it further enacted*, That it shall not be lawful for any person or persons to import, or bring into the said Territory, from any port or place without the limits of the United States, or cause, or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves. And every person, so offending, and being thereof convicted before any court within the said Territory, having competent jurisdiction, shall forfeit and pay, for each and every slave, so imported or brought, the sum of three hundred dollars, one moiety

for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave so imported or brought shall thereupon become entitled to, and receive, his or her freedom.

SEC. 13. *And be it further enacted*, That the laws in force in the said Territory, at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed, by the Legislature.

SEC. 14. *And be it further enacted*, That the citizens of the said Territory shall be entitled to one delegate to Congress, for the said Territory, who shall possess the same powers heretofore granted to the delegates from the several Territories of the United States. The said delegate shall be elected by such description of persons, at such times, and under such regulations, as the Governor and Legislative Council may, from time to time, ordain and direct.

Approved, March 30, 1822.

An Act concerning the Commerce and Navigation of Florida.

Be it enacted, &c., That any ship or vessel possessed of, and sailing under, a Spanish register, on the tenth day of July, one thousand eight hundred and twenty-one, and continuing to belong wholly to a citizen or citizens of the United States then residing within the territories ceded to the United States by the treaty of the twenty-second of February, one thousand eight hundred and nineteen, between the United States and the King of Spain, the ratifications of which were exchanged on the twenty-second of February, one thousand eight hundred and twenty-one, or to any person or persons being, on the said twenty-second day of February, an inhabitant, or inhabitants, of the said ceded territory, and who continue to reside therein, and of which the master is a citizen of the United States, or an inhabitant as aforesaid, may be registered, enrolled, and licensed, in the manner prescribed by law; and being so registered, enrolled, and licensed, shall be denominated and deemed a ship or vessel of the United States, and entitled to the same privileges and benefits: *Provided*, That it shall be lawful for the collector to whom application shall be made for a certificate of registry, enrolment, or license, by any citizen or inhabitant as aforesaid, to make such variations in the forms of the oath, certificates, and licenses, as shall render them applicable to the cases herein intended to be provided for: *And provided also*, That every such inhabitant, applying as aforesaid, shall, prior to his being entitled to receive such certificate of registry, enrolment, or license, deposit with the collector, the register and other papers under which such ship or vessel had been navigated; and also take and subscribe, before the collector, (who is hereby authorized to administer the same,) the following oath: "I, A, B, do swear (or affirm) that I will be faithful and bear true allegiance to the United States of America, and that I do entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sover-

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eighty whatever, and particularly to the King of Spain."

SEC. 2. *And be it further enacted*, That the inhabitants of said ceded territory, who were residents thereof on the said twenty-second day of February, who shall take the said oath, and who continue to reside therein, or citizens of the United States resident therein, shall be entitled to all the benefits and privileges of owning ships or vessels of the United States, to all intents and purposes, as if they were resident citizens of the United States.

SEC. 3. *And be it further enacted*, That, during the term of twelve years, to commence three months after the twenty-second day of February, one thousand eight hundred and twenty-one, being the day of the exchange of the ratifications of said treaty, Spanish ships or vessels, coming laden only with the productions of Spanish growth or manufacture, directly from the ports of Spain, or her colonies, shall be admitted into the ports of Pensacola and St. Augustine, in the said ceded territory, in the same manner as ships and vessels of the United States, and without paying any other or higher duties on their cargoes than by law now are, or shall at the time be, made payable by citizens of the United States on similar articles imported into said Pensacola or St. Augustine, in ships and vessels of the United States, from any of the ports or places of Spain, or her colonies, and without paying any higher tonnage duty than by law now is, or at the time shall be laid on any ship or vessels of the United States, coming from any port or place of Spain, or any of her colonies, to said ports of Pensacola or St. Augustine.

Approved, March 30, 1822.

An Act supplemental to the act, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile."

Be it enacted, &c., That the Corporation of the City of New Orleans be, and are hereby, authorized to appropriate so much of the lot of ground on which Fort St. Charles formerly stood, as may be necessary for continuing Esplanade street to the Mississippi river; and, also, to sell and convey that portion of the said ground which lies below said street; the proceeds of such sale shall be applied to the purchase of the ground necessary for the opening of Victory street, and the public walk and Elysian fields, and to such other purpose as the said Corporation may deem expedient.

Approved, March 30, 1822.

An Act to authorize the reconveyance of a tract of land to the City of New York.

Be it enacted, &c., That the President of the United States be, and he hereby is, authorized, whenever he shall have determined that the tract of land on and near the west head of the Battery, (so called,) in the city of New York, heretofore granted to the United States by the Mayor and Corporation of said city, is no longer required as a military position for the defence of the harbor and city of New York, to cause the works erected

thereon to be dismantled, and the materials thereof to be disposed of, in such manner as, in his judgment, the public interests may require; and to reconvey to the said Mayor and Corporation the said tract of land, granted by them for the purposes aforesaid.

Approved, March 30, 1822.

An Act to amend the laws now in force as to the issuing of original writs and final process in the Circuit Courts of the United States within the State of Tennessee.

Be it enacted, &c., That in each and every case where a citizen of any one of the United States shall wish to commence a suit in the circuit court of the United States for either the district of East or of West Tennessee, against two or more citizens of the State of Tennessee, some of whom reside in East and some in West Tennessee, it shall and may be lawful for such citizen to cause the clerk of the circuit court, in which he may elect to commence his suit, to issue duplicate writs, one directed to the marshal of East, and the other to the marshal of West Tennessee; which writs it shall be the duty of the respective marshals to execute and return, and, when returned, they shall be docketed and proceeded in to judgment as one case only.

SEC. 2. *And be it further enacted*, That in each and every case where a judgment has been recovered, or may be hereafter recovered, in either of said circuit courts, it shall and may be lawful for the plaintiff in any such action to cause his writ of fieri facias, alias fieri facias, or other process of execution, to be directed and delivered to the marshal of either East or West Tennessee, at his election; and it shall be the duty of such marshal to whom the same may be directed, to do execution thereof, in the same manner, and under the same penalties, that he would be if the judgment had been rendered in the court of the district of which he is marshal.

Approved, March 30, 1822.

An Act to authorize the State of Illinois to open a canal through the public lands, to connect the Illinois river with Lake Michigan.

Be it enacted, &c., That the State of Illinois be, and is hereby, authorized to survey and mark through the public lands of the United States, the route of the canal connecting the Illinois river with the southern bend of Lake Michigan, and ninety feet of land on each side of said canal shall be forever reserved from any sale to be made by the United States, except in the cases hereinafter provided for, and the use thereof forever shall be, and the same is hereby, vested in the said State for a canal, and for no other purpose whatever; on condition, however, that, if the said State does not survey and direct, by law, said canal to be opened, and return a complete map thereof to the Treasury Department, within three years from and after the passing of this act; or, if the said canal be not completed suitable for navigation within twelve years thereafter; or if said ground

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shall ever cease to be occupied by, and used for, a canal, suitable for navigation, the reservation and grant hereby made shall be void, and of none effect: *Provided, always,* And it is hereby enacted and declared, that nothing in this act contained, or that shall be done in pursuance thereof, shall be deemed or construed to imply any obligation on the part of the United States to appropriate any money to defray the expense of surveying or opening said canal: *Provided, also,* And it is hereby further enacted and declared, that the said canal, when completed, shall be, and forever remain, a public highway for the use of the Government of the United States, free from any toll or other charge whatever, for any property of the United States, or persons in their service, passing through the same.

SEC. 2. *And be it further enacted,* That every section of land, through which said canal route may pass, shall be, and the same is hereby, reserved from future sale, until hereafter specially directed by law; and the said State is hereby authorized and permitted, without waste, to use any materials on the public land adjacent to said canal that may be necessary for its construction.

Approved, March 30, 1822.

An Act to establish the District of Blakely.

Be it enacted, &c., That, from and after the thirtieth day of June next, the Alabama, Middle, and Tensaw rivers, in the State of Alabama, and all the shores and waters on the east side of the Bay of Mobile, and all the rivers of the said State emptying into the Gulf of Mexico, to the east of said bay, shall form a collection district, to be called the District of Blakely, of which the port of Blakely shall be the sole port of entry; and a collector for the district shall be appointed, to reside at such place as the President of the United States shall direct, near said port, who shall be entitled to receive, in addition to the fees and other emoluments established by law, the annual salary of two hundred and fifty dollars.

Approved, April 17, 1822.

An Act to fix the limits of the port of entry and delivery for the District of Philadelphia.

Be it enacted, &c., That Philadelphia shall, from and after the passage of this act, be the sole port of entry and delivery for the district of Philadelphia, which said port of entry and delivery shall be bounded by the navy yard on the south, and Cohocksink creek on the north, any thing in any former law to the contrary notwithstanding.

Approved, April 17, 1822.

An Act to remit the duties on a sword imported to be presented to Captain Thomas McDonough, of the United States Navy.

Be it enacted, &c., That the duties which have accrued, or which may accrue, to the United States, upon the importation of a sword, to be presented to Captain Thomas Macdonough, of the United States Navy, in behalf of the petty

officers, seamen, and marines, who served on board the frigate *Guerriere*, when she was lately under his command in the Mediterranean, which sword is represented to be, or lately to have been, in the custody of the collector of the district of New York, be, and the said duties are hereby, remitted.

Approved, April 17, 1822.

An Act to amend the act, entitled "An act to establish the District of Bristol, and to annex the towns of Kittery and Berwick to the District of Portsmouth," passed February 25th, eighteen hundred and one.

Be it enacted, &c., That, from and after the thirtieth day of September next, the District of Bristol, as described in the act, entitled "An act to establish the District of Bristol, and to annex the towns of Kittery and Berwick to the District of Portsmouth," passed February 25th, eighteen hundred and one, shall be called and known by the name of the District of Bristol and Warren, and that Bristol and Warren shall thereafter be considered as one port of entry, and shall possess all the rights and privileges which now belong to the port of Bristol.

Approved, April, 17, 1822.

An Act supplementary to an act, entitled "An act to alter the terms of the District Court of Alabama."

Be it enacted, &c., That the third section of the act, entitled "An act to alter the terms of the district court in Alabama," be, and the same is hereby, repealed; and so much of the second section of the act, entitled "An act to establish a district court in the State of Alabama," as was repealed by the said third section, is hereby revived, re-enacted, and declared to be of full force and effect.

SEC. 2. *And be it further enacted,* That all causes, actions, suits, indictments, libels, pleas, processes, and proceedings, of whatever kind, nature, or description, sued out, commenced, or made returnable at Cahawba, shall be there proceeded in and determined; and, in like manner, all such sued out, commenced, or made returnable at Mobile, shall be there proceeded in and determined.

Approved, April 17, 1822.

An Act to authorize the Secretary of the Treasury to exchange a stock bearing an interest of five per cent. for certain stocks bearing an interest of six and seven per cent.

Be it enacted, &c., That a subscription to the amount of twelve millions of dollars of the seven per cent. stock, and of the six per cent. stock, of the year eighteen hundred and twelve, and, also, for fourteen millions of the six per cent. stock of the years eighteen hundred and thirteen, fourteen, and fifteen, be, and the same is hereby proposed; for which purpose, books shall be opened at the Treasury of the United States, and at the several loan offices, on the first day of May, one thousand eight hundred and twenty-two, to continue open until the first day of July next thereafter, for such

parts of the above-mentioned description of stocks as shall, on the day of subscription, stand on the books of the Treasury, and on those of the several loan offices, respectively; which subscription shall be effected by a transfer to the United States, in the manner provided by law for such transfers, of the credit or credits standing on the said books, and by a surrender of the certificates of the stock so subscribed.

SEC. 2. *And be it further enacted*, That for the whole, or any part, of any sum, which shall be thus subscribed, of the six per cent. stocks of the years one thousand eight hundred and twelve, and one thousand eight hundred and thirteen, credits shall be entered to the respective subscribers, who shall be entitled to a certificate, or certificates, purporting that the United States owe to the holder, or holders thereof, his, her, or their assigns, a sum, to be expressed therein, equal to the amount of the principal stock thus subscribed, bearing an interest of five per centum per annum, payable quarterly, from the thirtieth day of June, one thousand eight hundred and twenty-two, transferable in the same manner as is provided by law for the transfer of the stock subscribed, and subject to redemption at the pleasure of the United States, in the proportion, and at the periods herein defined, viz: one-third at any time after the thirty-first day of December, one thousand eight hundred and thirty; one-third at any time after the thirty-first day of December, one thousand eight hundred and thirty-one; and the remainder at any time after the thirty-first day of December, one thousand eight hundred and thirty-two; and that for the whole, or any part, which shall be thus subscribed of the seven per cent. stock, credits shall be entered to the respective subscribers, who shall be entitled to a certificate, or certificates, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum, to be expressed therein, equal to the amount of the principal stock thus subscribed, bearing an interest of five per cent. per annum, payable quarterly, from the thirtieth day of June, eighteen hundred and twenty-two, transferable in the manner as is provided by law for the transfer of the stock subscribed, and subject to redemption at the pleasure of the United States, at any time after the thirty-first day of December, one thousand eight hundred and thirty-three: *Provided*, That no reimbursement shall be made, except for the whole amount of such new certificate, nor until after at least six months public notice of such intended reimbursement. And it shall be the duty of the Secretary of the Treasury to cause to be retransferred to the respective subscribers, the several sums by them subscribed, beyond the amount of the certificates of five per cent. stock, issued to them respectively.

SEC. 3. *And be it further enacted*, That, if the amount of seven and six per cent. stocks, authorized to be subscribed by the first section of this act, shall not have been subscribed by the first day of July next, the remainder of that amount may be subscribed on the books of the Treasury, at any time between the said first day of July, and the first day of October next thereafter; and for the

whole, or any part, of any sum which shall be thus subscribed, of the six per cent. stocks of the years eighteen hundred and twelve, eighteen hundred and thirteen, eighteen hundred and fourteen, and eighteen hundred and fifteen, credits shall be entered to the respective subscribers, who shall be entitled to a certificate, or certificates, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum, to be expressed therein, equal to the amount of the principal stock thus subscribed, bearing an interest of five per centum per annum, payable quarterly, from the thirtieth day of September, one thousand eight hundred and twenty-two, transferable in the same manner as is provided by law for the transfer of the stock subscribed, and subject to redemption, at the pleasure of the United States, in the proportion, and at the periods herein defined, viz: one-third at any time after the thirty-first day of December, one thousand eight hundred and thirty; one-third at any time after the thirty-first day of December, one thousand eight hundred and thirty-one, and the remainder at any time after the thirty-first day of December, one thousand eight hundred and thirty-two; and that, for the whole or any part which shall be thus subscribed of the seven per cent. stock, credits shall be entered to the respective subscribers, who shall be entitled to a certificate or certificates, purporting that the United States owe to the holder or holders thereof, his, her, or their assigns, a sum, to be expressed therein, equal to the amount of the principal stock thus subscribed, bearing an interest of five per centum per annum, payable quarterly, from the thirtieth day of September, one thousand eight hundred and twenty-two, transferable in the manner as is provided by law for the transfer of the stock subscribed, and subject to redemption at the pleasure of the United States, at any time after the thirty-first day of December, one thousand eight hundred and thirty-three: *Provided*, That no reimbursement shall be made, except for the whole amount of such new certificate, nor until after at least six months' public notice of such reimbursement.

SEC. 4. *And be it further enacted*, That the same funds which have heretofore been, and now are, pledged by law for the payment of the interest, and for the redemption or reimbursement of the stock which may be subscribed by virtue of the provisions of this act, shall remain pledged for the payment of the interest accruing on the stock created by reason of such subscription, and for the redemption or reimbursement of the principal of the same. It shall be the duty of the commissioners of the sinking fund to cause to be applied and paid out of the said fund, yearly and every year, such sum and sums as may be annually wanted to discharge the interest accruing to the stock which may be created by virtue of this act. The said commissioners are hereby authorized to employ, from time to time, such sum and sums out of the said fund, as they may think proper, towards redeeming, by purchase or reimbursement, in conformity with the provisions of this act, the principal of said stock. And such part of the said

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annual sum of ten millions of dollars, vested by law in the said commissioners, as may be necessary and wanting for the above purposes, shall be and continue appropriated to the payment of interest and redemption of the public debt, until the whole of the stock which may be created under the provisions of this act shall have been redeemed or reimbursed.

SEC. 5. *And be it further enacted*, That nothing in this act contained shall be construed in any wise to alter, abridge, or impair, the rights of those creditors of the United States who shall not subscribe to the loan to be opened by virtue of this act.

Approved, April 20, 1822.

An Act supplementary to an act, entitled "An act for the relief of the purchasers of public lands prior to the first day of July, eighteen hundred and twenty."

Be it enacted, &c., That all purchasers, and every legal holder of any certificate of the purchase of the public lands of the United States, who were entitled to, but who have not availed themselves of any of the provisions of the act of Congress of the second of March, one thousand eight hundred and twenty-one, entitled "An act for the relief of the purchasers of public lands prior to the first day of July, eighteen hundred and twenty," be allowed, at any time on or before the thirtieth day of September, one thousand eight hundred and twenty-two, to surrender their certificates of purchase, to accept, and, on filing such acceptances, shall be entitled and subject to such of the provisions of the aforesaid act, as apply to cases where complete payment may be made of any tract of land prior to the thirtieth day of September next.

SEC. 2. *And be it further enacted*, That all purchasers, and every legal holder of any certificate of purchase of the public lands of the United States, who may not have accepted any of the provisions of the aforesaid act of March second, one thousand eight hundred and twenty-one, or who may not avail themselves of the provisions of the first section of this act, be permitted, at any time prior to the thirtieth day of September next, to file their acceptances, and surrender their certificates of purchase, and shall be entitled to all the benefits and subject to all the provisions of the aforesaid act of March the second, one thousand eight hundred and twenty-one, which relate, in any manner, to relinquishment and classification, and to the extension of the time of payment by instalments, and the proceeding in relation thereto, in the same manner as if such acceptances had been filed on or before the thirtieth of September last.

SEC. 3. *And be it further enacted*, That all purchasers, and every legal holder of any certificate of purchase of the public lands of the United States, who may have filed their acceptances and surrendered their certificates of purchase, and accepted the provisions of the aforesaid act of March second, one thousand eight hundred and twenty-one, which relate to payments to be made by instalments, be permitted, notwithstanding their ac-

ceptances heretofore filed, to make complete payment on any tract of land, on or before the thirtieth day of September next, and shall be entitled to the discount provided for by the fourth section of the aforesaid act.

SEC. 4. *And be it further enacted*, That it shall be the duty of the registers and receivers of the several land offices of the United States to perform the duties prescribed by, or necessary to carry into complete effect the provisions of this act, according to the forms and instructions heretofore given by the Treasury Department, to keep full and faithful accounts and records of all proceedings under the same, in the manner prescribed by the eighth section of the aforesaid act, to make report of the same to the Treasury Department within the term of three months from the thirtieth of September next, and shall receive, as compensation for like services, the fees provided for by the seventh and eighth sections of said act.

SEC. 5. *And be it further enacted*, That every tract of land which would have been forfeited from a failure to file an acceptance, and to surrender the certificate of purchase on or before the thirtieth of September, one thousand eight hundred and twenty-one, be, and the same is hereby, exempted from forfeiture and sale until the thirtieth day of September next, and no longer.

Approved, April 20, 1822.

An Act to revive and continue in force "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia."

Be it enacted, &c., That the act passed the seventeenth day of March, in the year one thousand eight hundred, entitled "An act declaring the assent of Congress to certain acts of the States of Maryland and Georgia," and which, by subsequent acts, has been revived and continued in force until the third day of March, eighteen hundred and twenty-two, be, and the same hereby is, revived and continued in force until the third day of March, one thousand eight hundred and twenty-eight: *Provided*, That nothing herein contained shall authorize the demand of a duty on tonnage or vessels propelled by steam employed in the transportation of passengers.

Approved, April 20, 1822.

An Act making appropriations for the support of Government for the year one thousand eight hundred and twenty-two, and for other purposes.

Be it enacted, &c., That the following sums be, and the same are hereby, respectively appropriated for the service of the year one thousand eight hundred and twenty-two; that is to say:

For compensation, granted by law, to the Senate and House of Representatives, their officers, and attendants, in addition to an unexpended balance of two hundred and fourteen thousand and sixty-seven dollars and fourteen cents, two hundred and one thousand five hundred and twenty-one dollars eighty-six cents.

For the expense of fire wood, stationery, print-

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ing, and all other contingent expenses of the two Houses of Congress, forty-five thousand dollars.

For the expenses of the Library of Congress, including the Librarian's allowance for the year, one thousand nine hundred and fifty dollars.

For books for the Library, one thousand dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, six thousand dollars.

For compensation to the clerks in the Department of State, by the act of the twentieth of April, one thousand eight hundred and eighteen, fifteen thousand nine hundred dollars.

For compensation to the messengers in said Department, including the messenger in the Patent Office, nine hundred and sixty dollars.

For the contingent and incidental expenses of the Department of State, including expenses of publishing the foreign correspondence of the Confederation Congress, for extra copying of papers, and a deficiency in the appropriation for printing the secret journals of the Old Congress, twenty-four thousand four hundred and ninety-two dollars and fifty-six cents.

For compensation to the Secretary of the Treasury, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Treasury, ten thousand dollars.

For compensation to the messengers in said office, one thousand and fifty dollars, in full of all allowances.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks in the office of the First Comptroller, per act of twentieth April, one thousand eight hundred and eighteen, seventeen thousand eight hundred and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Second Comptroller, per act of the twentieth of April, one thousand eight hundred and eighteen, nine thousand seven hundred and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the First Auditor, per act of the twentieth of April, one thousand eight hundred and eighteen, fifteen thousand two hundred dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Second Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of

the Second Auditor, sixteen thousand two hundred dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Third Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Third Auditor, per act of the twentieth of April, one thousand eight hundred and eighteen, twenty-eight thousand six hundred dollars.

For compensation to the messengers in said office, one thousand and fifty dollars, in full of all allowances.

For compensation to the Fourth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Fourth Auditor, per act of the twentieth of April, one thousand eight hundred and eighteen, fifteen thousand and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Fifth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Fifth Auditor, per act of the twentieth of April, one thousand eight hundred and eighteen, ten thousand five hundred dollars.

For two clerks to complete the duties of the Commissioner of the Revenue, transferred to the office of the Fifth Auditor, two thousand five hundred and fifty dollars.

For one clerk on the business of the agent of the Treasury, transferred to the office of the Fifth Auditor, one thousand one hundred and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks in the office of the Treasurer of the United States, per act of twentieth of April, one thousand eight hundred and eighteen, five thousand two hundred and fifty dollars.

For compensation to an additional clerk, as allowed by act of appropriation of one thousand eight hundred and nineteen, and one thousand eight hundred and twenty; and, also, for an assistant to the chief clerk, one thousand two hundred dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks in the office of said Commissioner, per act of twentieth of April, one thousand eight hundred and eighteen, twenty-two thousand five hundred and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

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For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the Register, per act of twentieth of April, one thousand eight hundred and eighteen, twenty-two thousand five hundred and fifty dollars.

For compensation to the messenger in said office, including the allowance for stamping ships' registers, eight hundred dollars, in full of all allowances.

For compensation to the secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For allowance to the person employed in transmitting passports and sea letters; for expense of translating foreign languages in the office of the Secretary of the Treasury; for stationery, fuel, printing, and all other incidental and contingent expenses in the Treasury Department, and the several offices therein, including the expenses of stating and printing the public accounts for the year one thousand eight hundred and twenty-two, thirty-six thousand dollars.

For allowance to the superintendent and four watchmen, employed for the security of the State and Treasury buildings; for the repairs of engines, hose, and buckets, one thousand nine hundred dollars.

For compensation to the Secretary of War, six thousand dollars.

For compensation to the clerks in the office of the Secretary of War, per act of twentieth of April, one thousand eight hundred and eighteen, twenty-three thousand four hundred dollars.

For compensation to the messengers in said office, one thousand and fifty dollars.

For compensation to the Paymaster General, two thousand five hundred dollars.

For compensation to the clerks in the office of the Paymaster General, four thousand two hundred and fifty dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the Commissary General of Purchases, three thousand dollars.

For compensation to the clerks in the office of the Commissary General of Purchases, two thousand eight hundred dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For compensation to the clerks in the office of the Adjutant General, two thousand one hundred and fifty dollars.

For compensation to the clerks in the office of the Ordnance, two thousand nine hundred and fifty dollars.

For compensation to the clerks in the office of the Commissary General of Subsistence, two thousand one hundred and fifty dollars.

For compensation to the clerks in the Engineer Office, two thousand one hundred and fifty dollars.

For compensation to the clerk in the office of the Surgeon General, one thousand one hundred and fifty dollars.

For the contingent expenses of the War Department, including fuel, stationery, and other contingent expenses, six thousand dollars.

For compensation to the Secretary of the Navy, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Navy, per act of twentieth of April, one thousand eight hundred and eighteen, eight thousand two hundred dollars.

For compensation to the messengers in said office, one thousand and fifty dollars, in full of all allowances.

For the contingent expenses of the said office, two thousand dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For compensation to the Secretary to the Commissioners of the Navy Board, two thousand dollars.

For compensation to the clerks in the office of the Commissioners of the Navy Board, per act of twentieth April, one thousand eight hundred and eighteen, three thousand five hundred and fifty dollars.

For compensation of three clerks and a draughtsman, as allowed by acts of appropriation since the first of January, one thousand eight hundred and nineteen, four thousand dollars.

For compensation to the messenger in said office, seven hundred dollars, in full of all allowances.

For the contingent expenses of said office, two thousand dollars.

For allowance to the superintendent and four watchmen, employed for the security of the War and Navy buildings, and for the incidental and contingent expenses, including oil, fuel, and candles, two thousand and sixty-eight dollars.

For compensation to the Postmaster General, four thousand dollars.

For compensation to two Assistant Postmasters General, five thousand dollars.

For compensation to the clerks in the General Post Office, per act of twentieth of April, one thousand eight hundred and eighteen, twenty-two thousand seven hundred dollars.

For compensation to the messengers in said office, one thousand and fifty dollars, in full of all allowances.

For contingent expenses of said office, four thousand dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the clerks in the office of the Surveyor General, two thousand one hundred dollars.

For compensation to the Surveyor south of Tennessee, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, one thousand seven hundred dollars.

For compensation to the Surveyor in Illinois, Missouri, and Arkansas, two thousand dollars.

For compensation to the clerks in the office of said Surveyor, two thousand dollars.

For compensation to the Surveyor in Alabama, two thousand dollars.

For compensation to the clerks in the office of the Surveyor in Alabama, one thousand five hundred dollars.

For compensation to the late Commissioner of the Public Buildings at Washington City, four hundred and sixty-six dollars and sixty-seven cents.

For compensation to the officers and clerks in the Mint, nine thousand six hundred dollars.

For persons employed in the different operations of the Mint, nine thousand and fifty dollars.

For incidental and contingent expenses and repairs, cost of machinery, and for allowance of wastage in the gold and silver coinage of the Mint, eight thousand one hundred dollars.

For compensation to the Governor, Judges, and Secretary, of the Arkansas Territory, six thousand six hundred dollars.

For the contingent expenses of said territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For the contingent expenses of said territory, three hundred and fifty dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the Chief Justice, and Associate Judges of the District of Columbia, seventy-eight thousand two hundred dollars.

For compensation to the Attorney General of the United States, three thousand five hundred dollars.

For compensation to the clerk in the office of the Attorney General, eight hundred dollars.

For compensation to the Reporter of the decisions of the Supreme Court, one thousand dollars.

For compensation to sundry District Attorneys and Marshals, as granted by law, including those in the several territories, eight thousand nine hundred and fifty dollars.

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, and for defraying the expenses of prosecutions for offences against the United States, and for the safe keeping of prisoners, thirty thousand dollars.

For the payment of sundry pensions, granted by the late and present Government, two thousand nine hundred and forty-seven dollars and ninety-nine cents.

For making good a deficiency in the fund for the relief of seamen, thirty thousand dollars.

For the support and maintenance of lighthouses, beacons, buoys, and stakeages, including the purchase and transportation of oil, keepers' salaries, repairs, and improvements, and contingent expenses, forty-one thousand one hundred and four dollars and sixty-eight cents, in addition to an unexpended balance of fifty three thousand four hundred and twenty-six dollars and sixty-two cents.

For rebuilding the lighthouse on Fayerweather

island, which was blown down in the gale of third September last, three thousand dollars.

For building a lighthouse on the Bodkin, and two lighthouses on North Point, in Maryland; in addition to the sums heretofore appropriated for those objects, six thousand six hundred dollars.

For placing buoys in the channels through the shoals of Cape Hatteras and Cape Lookout, and in the channels through the Frying Pan Shoals, and over the bars at Ocracock and Cape Fear, one thousand six hundred dollars.

For stationery, books, &c., for the offices of Commissioners of Loans, six thousand nine hundred and sixty-nine dollars and sixteen cents.

For surveying the public lands of the United States, actually performed, in one thousand eight hundred and twenty-two, one hundred thousand dollars.

For payment to John Trumbull, for paintings commemorative of the most important events of the Revolution, six thousand dollars.

For the prohibition of the slave trade, being the amount carried to the surplus fund on the 31st December last, forty-seven thousand six hundred and forty-seven dollars and sixty-seven cents.

For the payment of balances due to officers of the old internal revenue and direct tax, fourteen thousand fifty-six dollars and ten cents.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall be admitted in due course of settlement, at the Treasury, six thousand dollars.

For the salaries of the Ministers of the United States to London, Paris, St. Petersburg, Lisbon, and Madrid, with the salaries of their several Secretaries of Legation, and the salaries of the Chargé des Affaires at the Hague and at Stockholm, sixty-four thousand dollars.

For an outfit to a Minister at Lisbon, nine thousand dollars.

For the contingent expenses of those missions, ten thousand dollars.

For expenses of carrying into effect the fifth, sixth, and seventh articles of the Treaty of Ghent, concluded on the twenty-fourth of December, one thousand eight hundred and fourteen, including the compensation of the Commissioners, Agents, and Surveyors, and their contingent expenses, twelve thousand five hundred dollars.

For the salaries of the Commissioners, Secretary, Clerk, and Messenger, together with the contingent expenses of the two commissions under the treaty with Spain, of the twenty-second of February, one thousand eight hundred and nineteen, thirty thousand dollars.

For the expense of ascertaining the longitude of the Capitol, to wit: For the compensation to William Lambert, two thousand dollars; to William Elliot, five hundred dollars; to Oswald Dunn, one hundred dollars; and for contingent expenses three hundred and sixty dollars and ninety-two cents.

SEC. 2. *And be it further enacted*, That the several sums hereby appropriated shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however*, That no money appro-

appropriated by this act, or by the act making appropriations for the military service of the United States, for the year eighteen hundred and twenty-two, and towards the service of the year eighteen hundred and twenty-three, shall be paid to any person for his compensation, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable; *Provided further*, That nothing in this section contained shall extend to balances arising solely from the depreciation of the Treasury notes received by such person to be expended in the public service; but, in all cases where the pay or salary of any person is withheld in pursuance of this act, it shall be the duty of the accounting officer, if demanded by the party, his agent, or attorney, to report forthwith to the agent of the Treasury Department the balance due; and it shall be the duty of said agent, within sixty days thereafter, to order suit to be commenced against such delinquent and his sureties.

SEC. 3. *And be it further enacted*, That the expense for postage incurred by marshals in taking and returning the fourth census of the United States, not exceeding two thousand dollars, be paid out of an unexpended balance of an appropriation for defraying the expense of the fourth enumeration of the inhabitants of the United States.—Approved, April 30, 1822.

An Act to perfect certain locations and sales of public lands in Missouri.

Be it enacted, &c., That the locations heretofore made of warrants issued under the act of 15th February, one thousand eight hundred and fifteen, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," if made in pursuance of the provisions of that act, in other respects, shall be perfected into grants, in like manner as if they had conformed to the sectional or quarter sectional lines of the public surveys; and the sales of fractions of the public lands heretofore created, by such locations, shall be as valid and binding on the United States as if such fractions had been made by rivers, or other natural obstructions.

SEC. 2. *And be it further enacted*, That hereafter the holders and locators of such warrants shall be bound, in locating them, to conform to the sectional or quarter sectional lines of the public surveyors, as nearly as the respective quantities of the warrants will admit; and all such warrants shall be located within one year after the passage of this act, in default whereof the same shall be null and void.

Approved, April 26, 1822.

An Act making appropriations for the Public Buildings.

Be it enacted, &c., That, for continuing the work on the Centre Building of the Capitol, and other improvements on the President's house, the following sums of money be, and hereby are, appropriated:

For continuing the work on the Centre Building, the sum of one hundred and twenty thousand dollars.

For constructing a culvert to the President's house, painting, and necessary repairs of the same, the sum of three thousand three hundred dollars.

For improving the grounds around the Capitol, twelve hundred and fifty dollars.

SEC. 2. *And be it further enacted*, That the said several sums of money be paid out of any moneys in the Treasury, not otherwise appropriated: *Provided, however*, That no money appropriated by this act shall be paid to any person for his compensation or perquisites, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable.

Approved, May 1, 1822.

An Act to alter the times of holding courts in the Western District of Virginia, and for other purposes.

Be it enacted, &c., That, instead of the times now prescribed by law for holding courts in the western district of Virginia, the said courts shall be held annually on the first Mondays of April and September, at Wythe courthouse; and at Lewisburgh on the Fridays succeeding the first Mondays of April and September; and at Clarksburg on the fourth Mondays in May and October; to which days, respectively, all process returnable to the first days of the next succeeding term, shall be held returnable, and returned accordingly.

SEC. 2. *And be it further enacted*, That if the judge shall not attend on the first day of any court, such court shall stand adjourned from day to day for three days, if the same cause continue; after which time, if the judge shall fail to attend, the court shall stand adjourned until the first day of the next term.

Approved, April 26, 1822.

An Act altering the time and place of holding the District Court in the District of Mississippi.

Be it enacted, &c., That the district court of the United States for the District of Mississippi, heretofore holden at the seat of government in the State of Mississippi, on the first Mondays in January and July, shall, after the next July term, which may be holden at the city of Natchez, hereafter hold its regular terms at the courthouse of Adams county, in the city of Natchez, on the first Mondays in April and October, and may continue to sit each term until the business of the court is finished.

SEC. 2. *And be it further enacted*, That every writ, process, subpoena, or recognizance, returnable according to law, or the tenor thereof, to either of the aforesaid terms holden on the first Mondays in January and July, shall, after the next July term, be returnable, and shall be returned to the next succeeding term of said court, to be holden on the first Mondays in April and October, after the passing of this act.

Approved, April 26, 1822.

Public Acts of Congress.

An Act supplementary to an act entitled "An act to set apart and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive."

Be it enacted, &c., That, whenever any individual or individuals, named in the contract entered into between the Secretary of the Treasury and Charles Villars, agent of the French Association, on the eighth day of January, one thousand eight hundred and nineteen, by virtue of the act of Congress, entitled "An act to set apart and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive," passed on the third day of March, one thousand eight hundred and seventeen, or the heir or devisees of such individual or individuals, shall have complied with the conditions of settlement and cultivation in the said contract prescribed, in proportion to his or their interest, under the said contract, and in the lands thereby set apart, and shall have paid the amount of purchase money, proportionate to his or their interest in said land, within the particular periods in the said contract limited, it shall and may be lawful for the Secretary of the Treasury, and he is hereby required, to cause letters patent to be issued to such individual or individuals, or his or their heirs, or devisees, for the amount of his or their interest in the lands set apart and contracted for, by virtue of the said act; any thing in the said act or contract contained, to the contrary notwithstanding; saving, always, to the widow of any such deceased proprietor, her right of dower in said lands, according to the laws in the State of Alabama.

Approved, April 26, 1822.

An Act to provide for paying to the States of Missouri, Mississippi, and Alabama, three per cent. of the net proceeds arising from the sale of public lands within the same.

Be it enacted, &c., That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public moneys of the several land offices in the said State of Missouri shall be settled, pay three per cent. of the net proceeds of the sales of the lands of the United States, lying within the State of Missouri, which, since the first day of January, one thousand eight hundred and twenty-one, have been, or hereafter may be, sold by the United States, after deducting all expenses incidental to the same, to such person or persons, as may or shall be authorized by the Legislature of the said State of Missouri to receive the same; which sum or sums, thus paid, shall be applied to the making of public roads and canals within the said State of Missouri, under the direction of the Legislature thereof, according to the provisions on this subject contained in the act of Congress of the sixth of March, one thousand eight hundred and twenty, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territo-

ries," and to no other purpose. And an annual account of the same shall be transmitted to the Secretary of the Treasury, by such officer or person of the State, as the Legislature thereof shall direct, and of its application, if any be made; and, in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sum or sums, that may then be due, or which thereafter may become due, until a return shall be made, as herein required.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public money of the several land offices in the State of Mississippi, shall be settled, pay three per cent. of the net proceeds of the sales of the lands of the United States lying within the State of Mississippi, which, since the first day of December, one thousand eight hundred and seventeen, have been, or hereafter may be, sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may or shall be authorized by the Legislature of the said State of Mississippi, to receive the same; which sum or sums, thus paid, shall be applied to making public roads and canals within the said State, according to the provisions on this subject contained in the act, entitled "An act to enable the people of the western part of Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," and to no other purpose; and an annual account of the same shall be transmitted to the Secretary of the Treasury, by such officer or person of the State, as the Legislature thereof shall direct, and of its application, if any be made; and, in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sum or sums that may then be due, or which thereafter may become due, until a return shall be made as herein required.

SEC. 3. *And be it further enacted.* That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public moneys of the several land offices in the State of Alabama shall be settled, pay three per cent. of the net proceeds of the sales of the lands of the United States lying within the State of Alabama, which, since the first day of September, in the year one thousand eight hundred and nineteen, have been, or hereafter may be, sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may or shall be authorized by the Legislature of the said State of Alabama to receive the same; which sum or sums, thus paid, shall be applied to making public roads and canals, and improving the navigation of rivers, within the said State of Alabama, under the direction of the Legislature thereof, according to the provisions on this subject contained in the act, entitled "An act to enable the people of the Alabama Territory to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original

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States," and to no other purpose; and an annual account of the same shall be transmitted to the Secretary of the Treasury, by such officer or person of the State as the Legislature thereof shall direct, and of its application, if any be made; and in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sum or sums that may then be due, or which thereafter may become due, until a return shall be made, as herein required: *Provided*, That the Secretary of the Treasury shall not allow to either of the said States of Mississippi and Alabama three per cent. on the net proceeds of the sales of public lands within the limits of the late Mississippi Territory, after deducting incidental expenses, until the sum of one million two hundred and fifty thousand dollars, stipulated to be paid by the United States to the State of Georgia, for the cession of the Mississippi Territory, now composing the States of Mississippi and Alabama, shall have been first paid and deducted; nor until the stock created under the provisions of the act of Congress of the thirty-first of March, one thousand eight hundred and fourteen, entitled "An act providing for the indemnification of certain claimants of public lands in the Mississippi Territory," and the act supplementary thereto, shall have been redeemed, or, if not entirely redeemed, the residue to be deducted from the net proceeds.

Approved, May 3, 1822.

An Act to repeal the act, entitled "An act to encourage Vaccination."

Be it enacted, &c., That the act passed the twenty-seventh day of February, one thousand eight hundred and thirteen, entitled "An act to encourage vaccination," be, and the same is hereby repealed.

Approved, May 4, 1822.

An Act to alter the times of holding the District Court in the District of New Jersey.

Be it enacted, &c., That the district court for the district of New Jersey shall hereafter be held at New Brunswick on the second Tuesdays of March and September, and at Burlington on the third Tuesdays of May and November, in every year; any thing in any act heretofore passed to the contrary notwithstanding.

Approved, May 4, 1822.

An Act relating to Treasury Notes.

Be it enacted, &c., That, from and after the passing of this act, no Treasury note shall be received in payment in account of the United States, or paid, or funded, except at the Treasury of the United States.

Approved, May 3, 1822.

An Act making an appropriation to defray the expenses of Missions to the Independent nations on the American continent.

Be it enacted, &c., That, for such Missions to the independent nations on the American continent,

as the President of the United States may deem proper, there be, and hereby is, appropriated, a sum not exceeding one hundred thousand dollars, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved, May 4, 1822.

An Act vesting in the State of Pennsylvania the right of the United States to all fines assessed for the non-performance of militia duty during the late war with Great Britain.

Be it enacted, &c., That all right which the United States have to the fines assessed upon the citizens of the State of Pennsylvania, for the non-performance of militia duty during the late war with Great Britain, shall be, and the same hereby is, vested in the said State.

SEC. 2. *And be it further enacted*, That all moneys in the hands of those who now are, or heretofore have been, marshal or deputy marshal, which may have been collected from the fines aforesaid, after deducting the expense of assessing and collecting, shall be paid by them, respectively, to the Treasurer of the said State.

SEC. 3. *And be it further enacted*, That the said fines shall be recovered by the said State, under such regulations, provisions, and restrictions, as shall be prescribed by the Legislature thereof.

SEC. 4. *And be it further enacted*, That the said State, provided it shall accept of the provisions of this act, shall account to the United States for the sum of three thousand two hundred and thirty-eight dollars and forty-six cents, if that amount of the said fines shall be collected, it being the expenses of three courts martial, held in the said State, for the trial of the said delinquents, of which Colonel Thomas C. Miller, Colonel James Wood, and Colonel Thomas Moore, were respectively presidents.

Approved, May 4, 1822.

An Act for the relief of the officers, volunteers, and other persons, engaged in the late campaign against the Seminole Indians.

Be it enacted, &c., That any officer, volunteer, ranger, cavalry, or other persons, engaged in the campaign of one thousand eight hundred and eighteen, against the Seminole Indians, who has sustained damage by reason of the loss of any horse or horses, which, in consequence of the Government of the United States failing to supply sufficient forage, while engaged in said service, died, or were unavoidably abandoned and lost, shall be allowed and paid the value thereof.

SEC. 2. *And be it further enacted*, That said officers, volunteers, and rangers, cavalry, or other persons, for the loss of any necessary equipage of said horse or horses, or for any guns lost in said service, or which were left in possession of the United States, or of any officer thereof, shall be allowed and paid the value thereof; said claims to be paid out of any moneys in the Treasury, not otherwise appropriated: *Provided*, That, if any payment shall have been made to any officer or soldier aforesaid, for the use and risk, after the

death or abandonment of his horse, such amount shall be deducted from the value thereof, unless said officer or soldier shall show that he was remounted, in which case the deduction shall only extend to the time such officer or soldier served on foot: *And provided, also,* That if any payment shall have been made to any officer or soldier, on account of clothing, such payment shall be deducted from the value of his horse or accoutrements: *And provided, further,* That no claim shall be allowed under the provisions of this act, until proper evidence shall have been received by the accounting officers from the company to which the claimants shall have belonged, showing the number of horses lost in said company in manner aforesaid, the time when lost, and the name of the owner.

SEC. 3. *And be it further enacted,* That the accounting officer of the Treasury Department shall audit and settle those claims, under such rules and regulations as the President of the United States may prescribe.

Approved, May 4, 1822.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and twenty-two, and for other purposes.

Be it enacted, &c., That, for defraying the expenses of the Navy for the year one thousand eight hundred and twenty-two, the following sums be, and the same are hereby, respectively appropriated:

For the pay and subsistence of the officers, and pay of the seamen, in addition to the sum of one hundred thousand dollars, already appropriated, the sum of eight hundred and sixty one thousand four hundred and sixty-six dollars.

For provisions, in addition to the sum of twenty thousand dollars, already appropriated, and to an unexpended balance of thirty thousand dollars, the sum of two hundred and sixty-seven thousand two hundred and fifty-eight dollars.

For medicines, hospital stores, and all expenses on account of the sick, thirty-two thousand dollars.

For the repairs of vessels, in addition to the sum of twenty thousand dollars already appropriated, the sum of three hundred and eighty-eight thousand dollars.

For improvement of navy yards, docks, and wharves, fourteen thousand four hundred and fifty dollars.

For pay of superintendents, naval constructors, storekeepers, inspectors of timber, clerks of the yards, and artificers, thirty-six thousand four hundred and fifty dollars.

For laborers and teams employed in loading and unloading vessels, piling, docking, and removing timber, stores, &c., and fuel for the engine, twenty thousand dollars.

For ordnance and ordnance stores, twenty-five thousand dollars.

For contingent expenses, in addition to the sum of twenty thousand dollars already appropriated, two hundred and ten thousand dollars.

For the pay and subsistence of the marine corps, in addition to an unexpended balance of twenty-two thousand dollars, one hundred and forty-seven thousand three hundred and ninety-three dollars.

For clothing the same, in addition to an unexpended balance of six thousand nine hundred and thirty-eight dollars and thirty-four cents, the sum of twenty-two thousand seven hundred and thirty-six dollars.

For fuel for nine hundred and thirty-eight non-commissioned officers, musicians, and privates, six thousand eight hundred and fifty dollars.

For military stores for the same, the unexpended balance of the year one thousand eight hundred and twenty-one, being eleven thousand one hundred and eighty dollars and fifteen cents.

For contingent expenses for the same; that is to say, fuel for commissioned officers, bed sacks, repairing barracks, transportation, and travelling expenses to officers, postage of letters, armorers, and armorers' tools, and stationery, with extra rations to officers commanding posts, fourteen thousand dollars.

To make good a deficit in the contingent expenses of the marine corps, which accrued prior to the year eighteen hundred and twenty-one, the sum of nine thousand one hundred and nine dollars and twenty-two cents.

SEC. 2. *And be it further enacted,* That the several appropriations hereinbefore made, shall be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however,* That no money appropriated by this act shall be paid to any person for his compensation or perquisites, who is in arrears to the United States, until such person shall have accounted for and paid into the Treasury all sums for which he may be liable: *Provided, further,* That nothing in this section contained shall extend to balances arising solely from the depreciation of Treasury notes received by such person to be expended in the public service. But in all cases where the pay or salary of any person is withheld in pursuance of this act, it shall be the duty of the accounting officer, if demanded by the party, his agent, or attorney, to report forthwith to the agent of the Treasury Department the balance due, and it shall be the duty of said agent, within sixty days thereafter, to order suit to be commenced against such defaulter.

Approved, May 4, 1822.

An Act to abolish the United States' Trading Establishment with the Indian tribes.

Be it enacted, &c., That the President of the United States shall be, and hereby is, authorized and required to cause the business of the United States trading-houses among Indian tribes to be closed, and the accounts of the superintendent of Indian trade, and of the factors and sub-factors, to be settled; and, for that purpose, the President is hereby authorized to select, from among the Indian agents, or others, a competent number of fit and suitable persons, to be and appear at the office of Indian trade in Georgetown, in the Dis-

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trict of Columbia, and at each of the trading-houses established among Indian tribes, on or before the third day of June next, or as soon thereafter as can conveniently be done, to demand and receive of and from the superintendent of Indian trade, and of the respective factors and sub-factors, all the goods, wares, and merchandise, furs, peltries, evidences of debt, and property and effects of every kind, which may be in their power, or possession, by virtue of their respective offices, and justly due and belonging to the United States; and the said agents, selected for the purpose aforesaid, shall be furnished with the copies of the latest quarterly returns of the said superintendent, factors, and sub-factors, as rendered by them to the Treasury Department, and copies of any other papers in the said Department, which will show what is or ought to be due and coming to the United States from the said office of Indian trade in Georgetown, and from each of the trading houses established among Indians. And the persons so selected shall enter into bond, with good and sufficient security, in such sums as may be required by the President of the United States, for the faithful discharge of the duties enjoined on them by the provisions of this act. And, from and after the third day of June next, the act of the second of March, one thousand eight hundred and eleven, entitled "An act for establishing trading houses with Indian tribes," shall be continued in force for the purposes only of enforcing all bonds, debts, contracts, demands, and rights, which may have arisen, and all penalties and punishments which may have been, or may be incurred, under the provisions of the said act, and for the settlement of the accounts of the superintendent, factors, and sub-factors, at the Treasury Department.

SEC. 2. *And be it further enacted,* That the goods, wares, and merchandise, which shall be delivered over to the agents of the United States, under the provisions of this act, shall be placed at the disposition of the President of the United States, subject, under his orders, towards satisfying or extinguishing the treaty obligations on the part of the United States to keep up trading houses with the Indians; also, towards the payment of annuities due, or to become due, to Indian tribes; also, in making the customary presents to tribes or individuals in amity with the United States; and the surplus, if any, may be sold to the best advantage, under the orders of the President, and the proceeds paid over to the Treasury of the United States.

SEC. 3. *And be it further enacted,* That the furs, peltries, effects, and property, received under the first section of this act, shall be sold in the manner the President may direct; the debts due and owing shall be collected under his orders; and all the money received from these sources, and all that shall be received from the superintendent of Indian trade, and from the factors and sub-factors, shall be paid over as fast as received into the Treasury of the United States: *Provided,* That such sums may be retained and applied, under the orders of the President of the United States, as

may be necessary to defray the expenses of carrying this act into effect.

SEC. 4. *And be it further enacted,* That, as soon as may be after the commencement of the next session of Congress, the President of the United States shall communicate to Congress the manner in which he shall have caused this act to be executed, showing the amount of moneys, furs, peltries, and other effects, and the amount and description of goods, wares, and merchandise, and the actual cash value thereof, received from the superintendent of Indian trade, and each of the factors and sub-factors, under the provisions of this act.

Approved, May 6, 1822.

An Act providing for the disposal of the public lands in the State of Mississippi, and for the better organization of the land districts in the State of Alabama and Mississippi.

Be it enacted, &c., That all that tract of country which was ceded to the United States by a treaty with the Choctaw Indians, held on the eighteenth day of October, in the year of our Lord one thousand eight hundred and twenty, near Doake's stand, in the State of Mississippi, be, and the same is hereby, formed into a land district; and, for the disposal of the public lands in the said district, a land office shall be established within the same, at such convenient place as the President of the United States may direct and appoint; and for said office a register and a receiver shall be appointed by the President, by and with the advice and consent of the Senate, who shall severally give bond, with security, before entering on the duties of their respective offices, in like manner, and for like sums; shall receive similar compensation, fees, and emoluments, and shall perform similar duties, and possess similar powers, with all other registers and receivers of public moneys of the United States, appointed by law for the disposal of the public land; and shall, in all respects, be governed by the laws of the United States providing for the disposal of the public lands: *Provided, however,* That the first sale of the lands within the district aforesaid may be held at such convenient place within the district west of Pearl river as the President of the United States may appoint: *And provided, also,* That the President may, if it should be necessary, in consequence of the establishment of a new basis meridian, attach a portion of the land otherwise belonging to the district established by this act, to the district west of Pearl river.

SEC. 2. *And be it further enacted,* That the President of the United States be, and he is hereby, authorized, when he shall think proper, to cause so much of the land within the district created by this act, or which may be attached to the district of Pearl river, and which may be surveyed, to be exposed to sale on the same terms and conditions, and in the same manner, as all other public lands of the United States, with the exception of section numbered sixteen, in each township, which shall be reserved for the use of schools within the same,

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and of such other reservations as now may, or hereafter may, exist by virtue of any act of cession, treaty, or law of the United States; and for the lands so sold, patents shall issue on the terms and conditions, and in the manner, provided by law in relation to all other public lands of the United States.

SEC. 3. *And be it further enacted*, That all the lands lying on the east side of the Tombigbee river, in the State of Mississippi, and to which the Indian title has been extinguished, be, after the thirtieth day of October next, attached to the district established by the first section of this act, and the public lands therein shall be sold on the same terms and conditions, and in the same manner, and patents shall issue for the lands so sold, agreeably to the provisions of the laws for the disposal of the public lands of the United States in the State of Mississippi, with the exception of section numbered sixteen, in each township, which shall be reserved for the use of schools within the same, and of such other reservations as now are made, or hereafter may be made by law. And it shall be the duty of the register of the district of Madison county, under the direction of the Commissioner of the General Land Office, to transfer such books, maps, and records, or transcripts thereof, to the register appointed for the district established by the first section of this act, as may be necessary to carry into complete effect the provisions of this section of this act.

SEC. 4. *And be it further enacted*, That, from and after the thirtieth day of October next, such part of the district east of Pearl river as lies within the State of Mississippi, be attached to, and constituted a part of, the district of Jackson county; and the President of the United States shall cause the land office to be removed to such place, within the district of Jackson county, as established by this act, as he may deem convenient; and that part of the district of Jackson county which lies within the State of Alabama, shall be attached to, and constitute a part of, the district east of Pearl river, in Alabama; and it shall be the duty of the Register of the district east of Pearl river, and the Register of the district of Jackson county, each, to transfer to the other such books, records, surveys, or the transcripts thereof, as shall be necessary to carry into complete effect the provisions of this section of this act.

Approved, May 6, 1822.

An Act in addition to the act concerning navigation, and also to authorize the appointment of Deputy Collectors.

Be it enacted, &c., That, on satisfactory evidence being given to the President of the United States that the ports in the islands or colonies in the West Indies, under the dominion of Great Britain, have been opened to the vessels of the United States, the President shall be, and hereby is, authorized to issue his proclamation, declaring that the ports of the United States shall thereafter be open to the vessels of Great Britain employed in

the trade and intercourse between the United States, and such islands, or colonies, subject to such reciprocal rules and restrictions as the President of the United States may, by such proclamation, make and publish; any thing in the laws, entitled "An act concerning navigation," or an act, entitled "An act supplementary to an act concerning navigation," to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That, in the event of the signature of any treaty or convention concerning the navigation or commerce between the United States and France, the President of the United States be, and is hereby authorized, should he deem the same expedient, by proclamation, to suspend, until the end of the next session of Congress, the operation of the act, entitled "An act to impose a new tonnage duty on French ships and vessels, and for other purposes;" and also to suspend, as aforesaid, all other duties on French vessels, or the goods imported in the same, which may exceed the duties on American vessels, and on similar goods imported in the same.

SEC. 3. *And be it further enacted*, That the aforesaid first and second sections of this act shall continue in force to the end of the next session of Congress, and no longer.

SEC. 4. *And be it further enacted*, That the third, fourth, and seventh sections of the act passed the third day of March, one thousand eight hundred and fifteen, and for other purposes," be, and the same are hereby, revived and made perpetual.

Approved, May 6, 1822.

An Act for the relief of certain insolvent debtors.

Be it enacted, &c., That so much of the seventeenth section of the act, entitled "An act for the relief of insolvent debtors within the district of Columbia," approved on the third day of March, one thousand eight hundred and three, as declares that the provisions of the said act shall not be construed to extend to any debtor who has not resided in the District of Columbia one year next preceding his application for relief under the said act, shall be and the same is hereby repealed: *Provided*, That no discharge under this act, or the act to which it is amendatory, shall operate against any creditor residing without the limits of the District of Columbia, except the creditor at whose instance the debtor may be confined. This act shall commence and be in force from and after the passing thereof.

Approved, May 6, 1822.

An Act to amend an act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," approved thirtieth March, 1802.

Be it enacted, &c., That the seventh section of the act, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," shall be, and the same is hereby, repealed; and, from and after the passing of this act, it shall be lawful for the superintendent

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ents of Indian affairs in the territories, and Indian agents, under the direction of the President of the United States, to grant licenses to trade with Indian tribes; which licenses shall be granted to citizens of the United States, and to none others; taking from them bonds, with securities, in the penal sum, not exceeding five thousand dollars, proportioned to the capital employed, and conditioned for the due observance of the laws regulating trade and intercourse with the Indian tribes; and said licenses may be granted for a term not exceeding seven years, for the trade with the remote tribes of Indians beyond the Mississippi, and two years for the trade with all the other tribes. And the superintendents and agents shall return to the Secretary of War, within each year, an abstract of all licenses granted, showing by, and to whom, when, and where granted, with the amount of the bonds, and capital employed, to be laid before Congress, at the next session thereof.

SEC. 2. *And be it further enacted*, That it shall and may be lawful for the President of the United States, in execution of the power vested in him by the twenty-first section of the act of the thirtieth of March, one thousand eight hundred and two, aforesaid, to which this is an amendment, to direct Indian agents, Governors of territories acting as superintendents of Indian affairs, and military officers, to cause the stores and packages of goods of all the traders to be searched upon suspicion or information that ardent spirits are carried into the Indian countries by said traders, in violation of the said twenty-first section of the act to which this is an amendment; and if any ardent spirits shall be so found, all the goods of the said trader shall be forfeited, one-half to the use of the informer, the other half to the use of the Government, his license cancelled, and bond put in suit.

SEC. 3. *And be it further enacted*, That all purchases for, and on account of, Indians, for annuities, presents, and otherwise, shall be made by the Indian agents, and Governors of territories acting as superintendents, within their respective districts; and all persons, whatsoever, charged or trusted with the disbursement or application of money, goods, or effects, of any kind, for the benefit of Indians, shall settle their accounts, annually, at the War Department, on the first day of September; and copies of the same shall be laid before Congress at the commencement of the ensuing session, by the proper accounting officer, together with a list of the names of all persons to whom money, goods, or effects, had been delivered, within the said year, for the benefit of the Indians, specifying the amount and object for which it was intended, and showing who are delinquent, if any, in forwarding their accounts according to the provisions of this act.

SEC. 4. *And be it further enacted*, That, in all trials about the right of property, in which Indians shall be party on one side, and white persons on the other, the burden of proof shall rest upon the white person, in every case in which the Indian shall make out a presumption of title in

himself, from the fact of previous possession and ownership.

SEC. 5. *And be it further enacted*, That it shall and may be lawful for the President of the United States, from time to time, to require additional security, and in larger amounts, from all persons charged or trusted, under the laws of the United States, with the disbursement or application of money, goods, or effects, of any kind, for the benefit of the Indians.

SEC. 6. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, may appoint a superintendent of Indian affairs, to reside at St. Louis, whose powers shall extend to all Indians frequenting that place, whose salary shall be fifteen hundred dollars per annum; and one agent for the tribes within the limits of East and West Florida, with a salary of fifteen hundred dollars.

Approved, May 6, 1822.

An Act to continue in force "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's."

Be it enacted, &c., That the act, entitled "An act declaring the consent of Congress to acts of the State of South Carolina, authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports; and to acts of the State of Georgia, authorizing the imposition and collection of a duty on the tonnage of vessels in the ports of Savannah and St. Mary's," passed the twenty-ninth of April, one thousand eight hundred and sixteen, shall be, and the same is hereby, continued in force for three years, and to the end of the next session of Congress thereafter: *Provided always, and it is hereby further enacted*, That it shall be the duty of the City Council of Charleston, and of the Collectors of the ports of Savannah and of St. Mary's, to transmit to the Secretary of the Treasury an annual account of the sums collected, and of the application of the same for the purposes aforesaid.

Approved, May 7, 1822.

An Act to provide for the collection of duties on imports and tonnage in Florida, and for other purposes.

Be it enacted, &c., That all the ports, harbors, waters, and shores of all that part of the main land of Florida, lying between the collection district of St. Mary's, in Georgia, and the river Nassau, with all the ports, harbors, waters, and shores, of all the islands opposite and nearest thereto, be, and hereby are, annexed to, and made and constituted a part of, the collection district of St. Mary's, in Georgia.

SEC. 2. *And be it further enacted*, That all the ports, harbors, shores, and waters, of the main land of Florida, and of the islands opposite and

nearest thereto, extending from the said river Nassau to Cape Sable, be, and the same are hereby, established a collection district, by the name of the district of St. Augustine, whereof St. Augustine shall be the only port of entry.

SEC. 3. *And be it further enacted*, That all the ports, harbors, shores, and waters, of the main land of Florida, and of the islands opposite and nearest thereto, extending from Cape Sable to Charlotte Bay, be, and the same are, established a collection district, by the name of the district of Key West, and a port of entry may be established in said district, at such place as the President of the United States may designate: *Provided*, That, until the President of the United States shall deem it expedient to establish a port of entry in the district of Key West, and a collector shall be appointed for said district, the same district is annexed to, and shall be a part of, the district of Appalachicola.

SEC. 4. *And be it further enacted*, That all the ports, harbors, shores, and waters, of the main land of said Florida, and of the islands opposite and nearest thereto, extending from Charlotte Bay to Cape St. Blas, be, and hereby are, established a collection district, by the name of the district of Appalachicola; and a port of entry shall be established for said district, at such place as the President of the United States may designate.

SEC. 5. *And be it further enacted*, That all the residue of the ports, harbors, waters, and shores, of said Florida, and of the islands thereof, be, and the same are, established a collection district, by the name of the district of Pensacola, whereof Pensacola shall be the only port of entry.

SEC. 6. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to establish such ports of delivery in each of said districts, and also in that portion of said territory annexed to the District of St. Mary's, as he may deem expedient.

SEC. 7. *And be it further enacted*, That the President of the United States, with the advice and consent of the Senate, shall appoint a collector for each district, to reside at the port of entry, and a surveyor for the District of Pensacola, and a surveyor for, and to reside at, each port of delivery authorized by this act. But the President, in the recess of the Senate, may make temporary appointments of any such collector or surveyor, whose commission shall expire in forty days from the commencement of the next session of Congress thereafter.

SEC. 8. *And be it further enacted*, That each collector and surveyor authorized by this act, shall give bond for the true and faithful discharge of his duties, in such sum as the President of the United States may direct and prescribe; and the collector for the District of Pensacola shall, in addition to the fees and emoluments allowed by law, receive three per cent. commissions, and no more, on all moneys received and paid by him on account of the duties on goods, wares, and merchandise, and on the tonnage of vessels; and each other collector shall, in addition to the fees and emoluments allowed by law, receive an annual salary of

five hundred dollars; and three per cent. commissions, and no more, on all moneys received and paid by him on account of the duties on goods, wares, and merchandise, imported into his district, and on the tonnage of vessels; and each surveyor authorized by this act shall, in addition to the fees and emoluments allowed by law, receive an annual salary of three hundred dollars; and each such collector and surveyor shall exercise the same powers, be subject to the same duties, and be entitled to the same privileges and immunities, as other collectors and surveyors of the customs of the United States.

SEC. 9. *And be it further enacted*, That ships or vessels arriving, from and after the thirtieth day of June next, from the Cape of Good Hope, or from any place beyond the same, shall be admitted to make entry at the port of entry of Pensacola, and at no other port or place in Florida.

SEC. 10. *And be it further enacted*, That all laws which impose any duties on the importation of any goods, wares, and merchandise, into said Territory of Florida, or on the exportation of any goods, wares, and merchandise, from said territory, or on the tonnage of vessels, or which allow any drawback on the exportation of any goods, wares, or merchandise, other than such duties or drawbacks as are paid or allowed in other territories or places in the United States, are hereby repealed: *Provided*, That nothing in this act contained shall authorize the allowing of drawbacks on the exportation of any goods, wares, and merchandise, from any port or place of said territory, other than on those which shall have been imported directly into the same, from a foreign port or place; and no drawback shall be allowed on any goods, wares, or merchandise, exported from any port of Florida which shall have been imported before the tenth day of July, one thousand eight hundred and twenty-one.

SEC. 11. *And be it further enacted*, That the first section of an act passed on the second day of March, one thousand eight hundred and nineteen, entitled "An act supplementary to the acts concerning the coasting trade," be so far altered and amended that the seacoast and navigable rivers of the United States be, and the same are hereby, divided into three great districts, the first and second to be and remain as therein described, and the third to include all the ports, harbors, seacoasts, and navigable rivers, between the southern limits of Georgia and the river Perdido, and said third great district, so established, shall be subject to all the regulations and provisions of said act.

Approved, May 7, 1822.

An Act for ascertaining claims and titles to land within the Territories of Florida.

Be it enacted, &c., That, for the purpose of ascertaining the claims and titles to land within the Territory of Florida, as acquired by the treaty of the twenty-second of February, one thousand eight hundred and nineteen, there shall be appointed, by the President of the United States, by and with the advice and consent of the Senate,

three Commissioners, who shall receive, as compensation for the duties enjoined by the provisions of this act, two thousand dollars each, to be paid quarterly, from the Treasury; who shall open an office for the adjudication of claims, at Pensacola, in the Territory of West Florida, and St. Augustine, in East Florida, under the rules, regulations, and conditions, hereinafter prescribed.

SEC. 2. *And be it further enacted,* That it shall be the duty of said Commissioners to appoint a suitable and well qualified Secretary, who shall record, in a well bound book, all and every their acts and proceedings, the claims admitted, with those rejected, and the reason of their admission or rejection. He shall receive, as a compensation for his services, one thousand two hundred and fifty dollars, to be paid quarterly, from the Treasury. He shall be acquainted with the Spanish language; and, before entering on a discharge of the duties of his office, shall take and subscribe an oath, before some authority competent to administer it, that he will, well and truly, and faithfully discharge the duties assigned him, and translate all papers that may be required of him by the Commissioners.

SEC. 3. *And be it further enacted,* That said Commissioners, previously to entering on a discharge of the duties assigned them, shall, before the Judge of the Territorial court at Pensacola, or some other authority in his absence, competent to administer it, take an oath faithfully to discharge the duties of their offices, and shall commence and hold their sessions on or before the first Monday of July next, at Pensacola, and on the first Monday of January thereafter, at St. Augustine, for the ascertaining and determining of all claims to land within the said Territories; notice of which shall be given, by said Commissioners, in some newspaper printed at each place, or, if there be no newspaper, at the most public places in said cities, respectively, of the time at which their sessions will commence, requiring all persons to bring forward their claims, with evidence necessary to support them. The session at St. Augustine shall terminate on the thirtieth of June, one thousand eight hundred and twenty-three, when said Commissioners shall forward to the Secretary of the Treasury, to be submitted to Congress, a detail of all they have done, and deliver over to the surveyor all the archives, documents, and papers, that may be in their possession.

SEC. 4. *And be it further enacted,* That every person, or the heirs or representatives of such persons, claiming titles to lands under any patent, grant, concession, or order of survey, dated previous to the twenty-fourth day of January, one thousand eight hundred and eighteen, which were valid under the Spanish Government, or by the law of nations, and which are not rejected by the treaty ceding the Territory of East and West Florida to the United States, shall file, before the Commissioners, his, her, or their claim, setting forth, particularly, its situation, and boundaries, if to be ascertained, with the deraignment of title, where they are not the grantees, or original claimants; which shall be recorded by the Secretary,

and who, for his said services shall be entitled to demand from the claimants ten cents for each hundred words contained in said papers, so recorded; he shall be entitled to twenty-five cents for each subpoena issued: *Provided,* That if the amount so received shall exceed one thousand two hundred and fifty dollars, which is hereby declared the compensation for his services, the excess shall be reported to the Commissioners, and be subject to their disposition; and said Commissioners shall proceed to examine and determine on the validity of said patents, grants, concessions, and orders of survey, agreeably to the laws and ordinances heretofore existing of the Governments making the grants, respectively, having due regard, in all Spanish claims, to the conditions and stipulations contained in the eighth article of a treaty concluded at Washington, between His Catholic Majesty and the United States, on the twenty-second of February, one thousand eight hundred and nineteen; but any claim not filed previous to the thirty-first day of May, one thousand eight hundred and twenty-three, shall be deemed and held to be void and of none effect. *Provided nevertheless, and be it further enacted,* That in all claims submitted to the decision of the Commissioners, where the same land, or any part thereof, is claimed by titles emanating both from the British and Spanish Governments, the Commissioners shall not decide the same, but shall report all such cases, with an abstract of the evidence, to the Secretary of the Treasury.

SEC. 5. *And be it further enacted,* That the Commissioners shall have power to inquire into the justice and validity of the claims filed with them; and shall be, and are hereby, authorized to administer oaths, to compel the attendance of witnesses, by subpoenas issued by the Secretary, and the aduction of such testimony as may be wanted; they shall have access to all papers and records of a public nature relative to any land titles within said provinces, and to make transcripts thereof. They shall examine into claims arising under patents, grants, concessions, and orders of survey, where the survey has been actually made previous to the twenty-fourth January, one thousand eight hundred and eighteen; whether they are founded upon conditions, and how far those conditions have been complied with; and if derived from the British Government, how far they have been considered valid under the Spanish Government; and if satisfied that said claims be correct and valid, shall give confirmation to them: *Provided,* That such confirmation shall only operate as a release of any interest which the United States may have, and shall not be considered as affecting the rights of third persons; and provided that they shall not have power to confirm any claim or part thereof where the amount claimed is undefined in quantity, or shall exceed one thousand acres; but in all such cases shall report the testimony, with their opinions, to the Secretary of the Treasury, to be laid before Congress for their determination. Every witness attending under any process from the Commissioners shall be allowed one dollar a day, and one dollar for every twenty miles' travel:

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to be paid by the party summoning him; *Provided, nevertheless,* That the Commissioners shall not act on, or take into consideration, any British grant, patent, warrant, or order of survey, but those which are bona fide claimed and owned by citizens of the United States, and which have never been compensated for by the British Government.

SEC. 6. *And be it further enacted,* That there shall be appointed, by the President of the United States, by and with the advice and consent of the Senate, a surveyor, who shall possess the power and authority, and receive the same salary, as by law appertains to the surveyor south of the State of Tennessee; but his duties shall not commence until the Commissioners shall have examined and decided upon the claims in West Florida, who shall thereupon furnish the surveyor with a list of those admitted, and he shall thereupon proceed to survey the country, taking care to have surveyed, and marked, and laid down upon a general plan, to be kept in his office, the metes and bounds of the claims so admitted; causing the same to be surveyed at the expense of the claimants, the price whereof shall be the same as is paid for surveying the public lands; but no surveyor shall charge for any line except such as may be actually run, nor for any line not necessary to be run. He shall appoint a suitable number of deputies, and shall fix and determine their fees: *Provided,* That the whole cost of survey shall not exceed four dollars a mile: *And provided also,* That none other than township lines shall be run where the land is deemed fit for cultivation. Said surveyor shall reside at such place as the President of the United States may direct, and shall keep his office there, and may charge the following fees, viz: for recording the plat and surveys of private claims made by any of his deputies, twenty-five cents for each mile contained in the boundary of such survey, and twenty-five cents for any copy certified from the books of his office.

Approved, May 8, 1822.

An Act to relieve the people of Florida from the operation of certain ordinances.

Be it enacted, &c., That an ordinance numbered three, made and passed on the eighteenth of July, eighteen hundred and twenty-one, by Major General Andrew Jackson, Governor of the provinces of the Floridas, entitled "An ordinance providing for the naturalization of the inhabitants of the ceded territory;" and an ordinance passed by the City Council of St. Augustine, on the seventeenth October, eighteen hundred and twenty-one, imposing and laying certain taxes on the inhabitants; and all other laws, ordinances, or resolves, so far as they enforce or confirm the same, be, and the same are hereby, repealed, and declared null and void.

SEC. 2. *And be it further enacted,* That if any person shall attempt to enforce any of said laws, ordinances, or resolves, by demanding and receiving any tax, imposition, or assessment, authorized or prescribed thereby, such person shall, on conviction thereof, be punished by fine not exceeding

two hundred dollars, or by imprisonment not exceeding six months, either or both of said punishments.

SEC. 2. *And be it further enacted,* That the President of the United States shall, in such manner and under such regulations as he may direct and prescribe, cause to be refunded to any person any sum of money which he may have paid under or by virtue of either of said laws, ordinances, or resolves.

SEC. 4. *And be it further enacted,* That this act shall be in force from and after the first day of June next.

Approved, May 7, 1822.

An Act authorizing a location of certain school lands in the State of Indiana.

Be it enacted, &c., That the Register of the land office at Brookville be, and he is hereby, authorized to select school lands within said district equivalent to the one thirty-sixth part of the reservation commonly called Clark's grant, for the use of schools within the same; and the Register of the land office at Terre Haute is hereby, in like manner, authorized to select, within his district, school lands, which, together with the eleven sections already selected, shall be equivalent to the one thirty-sixth part of the Vincennes donation tract, for the use of schools, within said tract. It shall be the duty of the Registers aforesaid, in making such selections, to be confined to section numbered twenty, in each township, and the selection so made shall be reserved from sale.

Approved, May 7, 1822.

An Act to repeal the fourteenth section of "An act to reduce and fix the Military Peace Establishment," passed the second day of March, one thousand eight hundred and twenty-one.

Be it enacted, &c., That the fourteenth section of the act, entitled "An act to reduce and fix the Military Peace Establishment," passed the second day of March, one thousand eight hundred and twenty-one, be, and the same is hereby, repealed.

An Act making further appropriations for the Military service of the United States for the year eighteen hundred and twenty-two, and for other purposes.

Be it enacted, &c., That the following sums be, and the same are hereby, appropriated, to wit:

For fortifications, to each, specifically, as follows, viz:

For Fort Delaware, twenty thousand dollars.

For Fort Washington, twenty-five thousand dollars.

For Fort Monroe, seventy-five thousand dollars.

For Fort Calhoun, fifty thousand dollars.

For collecting materials for a fortification at Mobile Point, in the State of Alabama, fifty thousand dollars.

For the Rigolets and Chef Menteur, one hundred thousand dollars.

For collecting materials for a fort on the right

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bank of the Mississippi, opposite Fort St. Philip, thirty thousand dollars.

For contingencies and repairs of fortifications, twenty thousand dollars.

For the national armories, three hundred and sixty thousand dollars.

For current expenses of the ordnance service, viz:

For the preservation of the arms and other public property in store, including the hired workmen, and purchase of paint, oil, and other materials necessary for the purpose, eight thousand eight hundred and thirty-eight dollars.

To meet ordinary requisitions for army supplies, viz:

For paint and oil for the preservation of the guns and carriages in the fortifications, and for artificers' and intrenching tools, six thousand three hundred and forty dollars.

For the miscellaneous expenses at arsenals, forage for public horses, stationery, &c., two thousand eight hundred and sixty-two dollars.

For the reparation of defective arms, including the wages of armorers, the purchase of iron, steel, coals, tools, &c., eleven thousand nine hundred and sixty dollars.

For repairs of arsenals, one thousand dollars.

For the preservation of ammunition, five thousand dollars.

For the payment of outstanding claims, which accrued in one thousand eight hundred and nineteen, and one thousand eight hundred and twenty, at Pittsburgh, and not presented until eighteen hundred and twenty-one, and unpaid for want of an appropriation applicable to the subject, one thousand seven hundred dollars.

For arrearages in the War Department prior to the first of July, one thousand eight hundred and seventeen, ninety thousand dollars.

For pay allowed by law to Indian agents, twenty-two thousand three hundred dollars.

For sub-agents, eleven thousand three hundred and thirty-eight dollars.

For presents to Indians, allowed by the law of eighteen hundred and two, fifteen thousand dollars.

For contingent expenses of the Indian department, seventy-five thousand dollars.

For making good a deficit of the appropriation of the last year, in the same, seventy thousand dollars.

For payment of a deficit of the appropriation for the Quartermaster General's department, for eighteen hundred and twenty-one, seventy thousand dollars.

For completing the barracks at Baton Rouge, twelve thousand dollars.

For constructing new roofs for the barracks at Carlisle, three thousand five hundred dollars.

For the payment of the expenses of the militia court-martial in Pennsylvania, of which Lieutenant Colonel Thomas Moore and David Fore were successively presidents, eight hundred and forty dollars and eighty-four cents.

For the payment of the expenses of the militia court martial in Pennsylvania, of which Thomas C. Miller was president, one thousand five hun-

dred and ninety-eight dollars and seventy-eight cents.

For the payment of the expenses of the militia court martial in Pennsylvania, of which Colonel James Wood was president, seven hundred and ninety-eight dollars and eighty-four cents.

For the payment of the balance of the expenses of the militia court martial in the State of New York, of which Brigadier General Gerard Stedford was president, nineteen thousand two hundred and sixteen dollars and twenty-nine cents.

For the balance of an appropriation made nineteenth February, eighteen hundred and eighteen, to defray the expenses of employing a brigade of militia, being the amount thereof carried to the surplus fund, twelve thousand three hundred and seventy-four dollars and fifty-seven cents.

For replacing the like amount of appropriations made for the survey of certain ports and harbors, which has been carried to the surplus fund, the sum of one thousand three hundred and thirty-four dollars and seventy-eight cents.

For replacing the like amount appropriated to procure medals for the officers of the army, carried to the surplus fund, the sum of eight thousand two hundred dollars.

For replacing the like amount appropriated for the relief of Colonel William Lawrence, and others, carried to the surplus fund, the sum of one thousand four hundred and forty dollars and twelve cents.

For carrying into effect the treaty concluded at Chicago, on the twenty-ninth day of August, eighteen hundred and twenty-one, the sum of eighteen thousand one hundred and seven dollars and ten cents.

For carrying into effect so much of the fourth article of the treaty of the eighth of January, one thousand eight hundred and twenty-one, between the United States and the Creek nation, in relation to the compensation due to the citizens of Georgia by the Creek nation, fifty thousand dollars.

For the purpose of holding treaties with the Cherokee and Creek tribes of Indians for the extinguishment of the Indian title to all the lands within the State of Georgia, pursuant to the fourth section of the first article of the agreement and cession, concluded between the United States and the State of Georgia, on the twenty-fourth day of April, one thousand eight hundred and two, the sum of thirty thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of any money in the Treasury, not otherwise appropriated.

SEC. 3. *And be it further enacted*, That no money appropriated by this act, or by the act, entitled "An act making appropriations for the military service of the United States for the year one thousand eight hundred and twenty-two," shall be advanced or paid to any person on any contract, or to any officer who is in arrears to the United States, until he shall have accounted for, and paid into the Treasury, all sums for which he may be liable.—Approved, May 7, 1822.

An Act further to amend the several acts relative to the Treasury, War, and Navy Departments.

Be it enacted, &c., That the second section of the act, entitled "An act making alterations in the Treasury and War Departments," passed the eighth day of May, seventeen hundred and ninety-two; the second section of the act, entitled "An act to alter and amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the sixteenth day of July, seventeen hundred and ninety-eight; and the seventh section of the act, entitled "An act to provide for the prompt settlement of public accounts," passed the third day of March, eighteen hundred and seventeen, be, and hereby are, repealed, from and after the thirtieth day of June, eighteen hundred and twenty-two.

SEC. 2. *And be it further enacted,* That, on the day and year last aforesaid, all moneys which may remain in the hands of the Treasurer of the United States, as agent of the War and Navy Departments, shall, under the direction of the Secretaries of those Departments, respectively, be repaid into the Treasury, and carried to the credit of the proper Department upon the books of the Treasury.

SEC. 3. *And be it further enacted,* That all moneys appropriated for the use of the War and Navy Departments, shall, from and after the day and year last aforesaid, be drawn from the Treasury by warrants of the Secretary of the Treasury, upon the requisitions of the Secretaries of those Departments, respectively, countersigned by the Second Comptroller of the Treasury, and registered by the proper Auditor.

SEC. 4. *And be it further enacted,* That so much of the said act of the third day of March, one thousand eight hundred and seventeen, as is repugnant to the foregoing provisions, be, and is hereby, repealed, from and after the thirtieth day of June, eighteen hundred and twenty-two.

Approved, May 7, 1822.

An Act fixing the compensation of the Commissioner of the Public Buildings.

Be it enacted, &c., That, instead of the salary of two thousand dollars, heretofore allowed by law to the Commissioner of the Public Buildings, there shall henceforth be allowed to the said Commissioner a salary of one thousand five hundred dollars a year, to be paid quarterly, out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted,* That the said Commissioner shall give bond, with one or more sufficient sureties, in such sum and form as the President of the United States shall direct, for the faithful discharge of the duties of his office: *Provided,* That there shall not be placed in his hand, at any one time, a sum exceeding the penalty of the bond.

SEC. 3. *And be it further enacted,* That the third section of the act, entitled "An act making an appropriation for enclosing and improving the public square near the Capitol, and to abolish the

office of Commissioners of the Public Buildings, and Superintendent, and for the appointment of one Commissioner for the Public Buildings," approved the twenty-ninth day of April, A. D. one thousand eight hundred and sixteen, which said section fixed the salary of the said Commissioner at two thousand dollars, be, and the same is hereby, repealed.

Approved, May 7, 1822.

An Act to provide for annuities to the Ottawas, Pottawatamies, Kickapoos, Choctaws, Kaskaskias, to Mushalutubbe, and to carry into effect the treaty of Saganaw.

Be it enacted, &c., That, for carrying into effect a treaty concluded at Chicago, on the twenty-ninth day of August, one thousand eight hundred and twenty-one, the following sums, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same are hereby, appropriated for the payment of the annuity in said treaty, to be paid to the following Indian tribes, that is to say: To the Ottawas a permanent annuity of one thousand dollars, annually; to the said tribe of Indians, one thousand five hundred dollars, annually, for ten years, in support of a blacksmith, teacher, and a person to instruct the Ottawas in agriculture, and for the purchase of cattle and farming utensils; to the Pottawatamies, five thousand dollars, annually, for twenty years, and a further sum of one thousand dollars to the said tribe of Indians, stipulated in said treaty to be applied by the President annually in support of a blacksmith and teacher for them; to the Kickapoo tribe of Indians, two thousand dollars annually, for fifteen years, stipulated to be paid to the said tribe by the treaty concluded at Edwardsville, in the State of Illinois, on the thirtieth of July, one thousand eight hundred and nineteen, and to continue so appropriated, so long as the said treaties shall be in force.

For carrying into effect certain stipulations contained in the treaty of the sixteenth of November, one thousand eight hundred and five, with the Choctaw nation, and for the annual gratuity to said nation, allowed under previous treaties, for which no appropriation has heretofore been made, annually, two thousand four hundred dollars.

For the annuity to Mushalutubbe, provided for in the treaty concluded with the Choctaw nation, October eighteenth, one thousand eight hundred and twenty, and to carry into effect the stipulation of said treaty relative to light-horse, annually, seven hundred and fifty dollars.

For annuity secured to the Kaskaskias tribe by the treaty of the thirteenth August, one thousand eight hundred and three, for which no appropriation has heretofore been made, annually, five hundred dollars.

For carrying into effect the stipulation contained in the treaty concluded at Saganaw, the twenty-fourth September, one thousand eight hundred and nineteen, relative to the employment of a blacksmith, and persons to aid in agriculture, &c., and

for which no appropriation has heretofore been made, the annual sum of two thousand dollars.

Approved, May 7, 1822.

An Act to authorize and empower the Corporation of the City of Washington, in the District of Columbia, to drain the low grounds on and near the public reservations, and to improve and ornament certain parts of said reservation.

Be it enacted, &c., That it shall be lawful for the Mayor, Aldermen, and Common Council, of the City of Washington, under the direction of the President of the United States, and the said Corporation is hereby authorized, when they shall deem it necessary, to contract with the Washington Canal Company, and obtain their consent to change the present location of such parts of the canal, passing through the said city, as lies between Second and Seventh streets west, into such other course as shall most effectually, in their opinion, drain and dry the low grounds lying on the borders of Tiber creek.

SEC. 2. *And be it further enacted,* That to effect the object aforesaid, and to fill up the low grounds on the borders of the said canal, in such manner as they may provide by law, the said Corporation is hereby authorized and empowered, after having extended the public reservation, designated on the plan of the said city as number ten, so that the whole south side thereof shall bind on the line of Pennsylvania avenue, and after having caused to be divided the said public reservation numbered ten, except such part thereof as has already been sold; and, also, the public reservations numbered eleven and twelve, into building lots, to sell and dispose of the right of the United States of, in, and to, the said lots, or any number thereof, laid off as aforesaid, at public sale, on such conditions of improvement, and on such terms, as the said Corporation shall prescribe; and the said Corporation is further authorized and empowered, for the purposes specified in this act, to cause to be laid off, in such manner as the President of the United States may approve of, two squares, south of Pennsylvania avenue, between Third and Sixth streets west, to front on the line of said avenue, from the junction of said Sixth street west and the said avenue to the junction of Third street west with said avenue; and, also, to lay off, north of Maryland avenue, two uniform and correspondent squares, and the said four squares, when so laid off, to divide into building lots, and to sell and dispose of the right of the United States of, in, and to, such building lots, or any number thereof, at public sale, on such conditions of improvement, and on such terms, as the said Corporation shall prescribe; but no change shall be made in the direction of the said canal, unless the consent, in writing, of the President and Directors of the Washington Canal Company be first had and obtained; and the change that shall be made, in pursuance of any contract that may be entered into under this act, shall be made by the said company, out of the moneys to be paid to the said company, by the said Corporation, and the said

company shall, during the time the proposed alteration is in progress, be entitled to receive the same rates of wharfage that are secured to them by any former act or acts, but no landing shall be permitted for the purposes of wharfage between the west side of Third and the east side of Sixth streets west.

SEC. 3. *And be it further enacted,* That, upon the payment of the purchase money, and upon compliance with the conditions of improvement by the purchaser or purchasers, or his or their heirs or assigns, the mayor of the said city, for the time being, shall be, and he is hereby, empowered to execute a deed or deeds in fee to such purchaser or purchasers, his or their heirs or assigns, under his hand, and the seal of the said Corporation; which deed or deeds shall be recorded among the land records of the county of Washington, within the time prescribed for the recording of conveyances of real estates.

SEC. 4. *And be it further enacted,* That if, after the aforesaid objects shall be effected, a balance shall remain unexpended in the hands of the said Corporation, from the proceeds of the sale of the said lots, the said Corporation is authorized and empowered to appropriate and apply, from time to time, as the same may be collected, the whole or any part of such balance to enclosing, planting, or otherwise improving the public reservation between the Capitol Square and Sixth street west, and building one or more bridges over that part of the canal lying in or between Second and Sixth streets west; but the said Corporation is hereby expressly prohibited from undertaking any of the improvements, contemplated by this section, unless the said improvements shall be effected out of the funds created by this act, or out of the corporate funds of the said Corporation; and the Corporation of the said city shall have the control and management of the public reservation between the Botanic Garden and Sixth street west, with the view to the improvement and preservation of the same until Congress shall otherwise direct.

SEC. 5. *And be it further enacted,* That the residue of the fund, created by the sale of lots authorized by this act, after effecting the objects contemplated by the foregoing sections, shall, from time to time, as the same may be collected, be paid by the Mayor of Washington into the Treasury of the United States.

SEC. 6. *And be it further enacted,* That it shall be lawful for the legal representative of any former proprietor of the land directed to be disposed of by this act, or persons lawfully claiming title under them, and they are hereby permitted and authorized, at any time within one year from the passing of this act, to institute a bill in equity in the nature of a petition of right against the United States, in the circuit court of the United States for the District of Columbia, in which they may set forth the grounds of their claim to the land in question.

SEC. 7. *And be it further enacted,* That a copy of said bill shall be served on the Attorney General of the United States, and it shall be his duty to prepare and put in the proper pleas and answers,

and make all proper defence thereto in behalf of the United States.

SEC. 8. *And be it further enacted*, That the said suit shall be conducted according to the rules of a court of equity, and the said court shall have full power and authority to hear and determine upon the claim of the plaintiff or plaintiffs, and what proportion, if any, of the money arising from the sale of the land hereby directed to be sold, the parties may be entitled to.

SEC. 9. *And be it further enacted*, That the plaintiff or plaintiffs, or the Attorney General of the United States, shall be entitled to an appeal to the Supreme Court of the United States, whose decision shall be conclusive between the parties; and should no appeal be taken, the judgment or decree of the said circuit court shall, in like manner, be final and conclusive.

Approved, May 7, 1822.

An Act further to establish the compensation of officers of the customs, and to alter certain collection districts, and for other purposes.

Be it enacted, &c., That the collection district of White Mountains shall be, and hereby is, annexed to the district of Portsmouth, in New Hampshire; the district of Memphrymagog, to the district of Vermont; the district of Hudson, to the district of New York; and each of the districts so annexed is hereby abolished, and made and constituted a part of the district to which it is annexed.

SEC. 2. *And be it further enacted*, That the collection district of Chester, with the district of Havre de Grace, be, and hereby is, annexed to the district of Baltimore; the district of Nottingham, to the district of Annapolis; the districts of Dumfries and Yeocomico, to the district of Tappahannock; the districts of Hampton, in Virginia, and South Quay, to the district of Norfolk and Portsmouth; and each of the districts so annexed is hereby abolished, and made and constituted a part of the district to which it is annexed, and established a port of delivery, with the privileges appertaining to such ports.

SEC. 3. *And be it further enacted*, That the offices of surveyor in Augusta, Thomastown, Waldoboro', St. George, Bristol, Nobleboro', and Bangor, in Maine; Easton, Great Mills, St. Inigoes, in Maryland; Winton, Tombstone, Skewarky, Nixonton, Indiantown, New Biggin Creek, and Pasquotank, in North Carolina; Pittsburg, Marietta, Cincinnati, Massac, Charlestown, in Virginia, and Lime-stone, be, and the same are hereby, abolished.

SEC. 4. *And be it further enacted*, That the ports of delivery of Augusta, in Maine, Winton, Tombstone, Skewarky, Nixonton, Indiantown, New Biggin Creek, and Pasquotank, in North Carolina, be, and the same are hereby, discontinued as ports of delivery.

SEC. 5. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, with the advice and consent of the Senate, to appoint a surveyor to each of the ports of delivery established by this act; and, also, a

surveyor for the port of Eastport, in the district of Passamaquoddy; and each surveyor, so appointed, shall have the same powers, and be subject to the same duties, as other surveyors of the customs.

SEC. 6. *And be it further enacted*, That the salaries heretofore allowed by law to the several collectors of the customs for the districts of White Mountains, Memphrymagog, Barnstable, Nantucket, Marblehead, and New Bedford, shall cease and be discontinued.

SEC. 7. *And be it further enacted*, That, in lieu of the commissions allowed by law to the several officers hereafter mentioned, there shall be allowed the following, to wit: To each of the collectors for the districts of Saco, Cape Vincent, Georgetown, in the District of Columbia, Newbern, and St. Mary's, in Georgia, three per cent.; to each collector for the districts of Kennebunk, Newport, and New London, two and a half per cent.; to each collector for the districts of Bath, Bristol, New Haven, and Alexandria, two per cent.; to the collector for the district of Portsmouth, one and three-fourths per cent.; to each collector for the districts of Norfolk and Portsmouth, Petersburg, and Richmond, one and three-fourths per cent.; and to the collector for the district of Mississippi, one per cent.; to the collector for the district of Boston, one-fifth of one per cent.; and to the collector for the district of New York, one-sixth of one per cent. on all moneys by them respectively received on account of the duties arising from goods, wares, and merchandise, imported into the United States, and on the tonnage of vessels.

SEC. 8. *And be it further enacted*, That, in addition to the emoluments of the several officers hereinafter mentioned, and in lieu of the salaries now established by law, there shall be allowed and paid the following salaries, to wit: To the collector of the district of Wilmington, in Delaware, five hundred dollars; to the collector of the district of Sag Harbor, four hundred dollars; to each of the collectors for the districts of Saco, Edgartown, Fairfield, Cape Vincent, Sackett's Harbor, Champlain, Oswegatchie, Oswego, Oxford, Tappahannock, Beaufort, in North Carolina, Edenton, Georgetown in South Carolina, and Beaufort, in South Carolina, two hundred and fifty dollars; to each of the collectors for the districts of Wiscasset, Oswego, Plymouth, in North Carolina, two hundred dollars; to the surveyor at Eastport, for the district of Passamaquoddy, five hundred dollars; to the surveyors at North Kingston, for the district of Newport, and to each of the surveyors at New London, and at Hartford and Middletown, for the district of Middletown and Hampton, two hundred and fifty dollars; to each of the surveyors of the ports for the districts of St. Mary's, in Maryland, East River, South Quay, Petersburg, Edenton, Pawtuxet, and Camden, two hundred dollars; and to each of the surveyors of the ports of Chester, Havre de Grace, Nottingham, Dumfries, and Yeocomico, one hundred and fifty dollars; to the naval officers for the districts of Providence and Newport, two hundred and fifty dollars each.

SEC. 9. *And be it further enacted*, That, whenever the emoluments of any collector of the customs of either of the ports of Boston, New York, Philadelphia, Baltimore, Charleston, Savannah, or New Orleans, shall exceed four thousand dollars, or the emoluments of any naval officer of either of the said ports shall exceed three thousand dollars, or the emoluments of any surveyor of either of said ports shall exceed two thousand five hundred dollars, in any one year, after deducting the necessary expenses incident to his office in the same year, the excess shall, in every such case, be paid into the Treasury, for the use of the United States.

SEC. 10. *And be it further enacted*, That, whenever the emoluments of any other collector of the customs shall exceed three thousand dollars, or the emoluments of any other naval officer shall exceed two thousand five hundred dollars, or the emoluments of any other surveyor shall exceed two thousand dollars, in any one year, after deducting therefrom the necessary expenses incident to his office in the same year, the excess shall, in every such case, be paid into the Treasury, for the use of the United States.

SEC. 11. *And be it further enacted*, That the preceding provisions shall not extend to fines, penalties, or forfeitures, or the distribution thereof.

SEC. 12. *And be it further enacted*, That every collector, naval officer, and surveyor, shall account to the Treasury for all his emoluments, and, also, for all the expenses incident to his office; that such accounts, as well of expenses as of emoluments, shall be rendered on oath or affirmation, at such times, and in such forms, and shall be supported by such proofs, as shall be prescribed by the Secretary of the Treasury, and all such accounts shall be settled at the Treasury like other public accounts.

SEC. 13. *And be it further enacted*, That every collector, naval officer, and surveyor, shall together with his accounts of expenses incident to his office, render a list of the clerks employed by him, stating the rate of compensation allowed to each, and the duties which they severally perform; and, also, an account of the sums paid for stationery, official or contingent expenses, fuel, and office rent, stating the purposes for which the premises rented are applied.

SEC. 14. *And be it further enacted*, That, in the ports of Boston, New York, Philadelphia, Baltimore, Charleston, Savannah, and New Orleans, no person shall be an inspector who, at the same time, holds any other office in the collection of the customs in either of the said ports.

SEC. 15. *And be it further enacted*, That the Secretary of the Treasury may, from time to time, limit and fix the number and compensations of the clerks to be employed by any collector, naval officer, or surveyor, and may limit and fix the compensation of any deputy of any such collector, naval officer, or surveyor: *Provided*: That no such deputy, in any of the districts of Boston and Charlestown, New York, Philadelphia, Baltimore, Charleston, Savannah, or New Orleans, shall receive more than one thousand five hundred dol-

lars, nor any other such deputy more than one thousand dollars, in any one year, for any services he may perform for the United States, in any office or capacity.

SEC. 16. *And be it further enacted*, That no account for the compensation for services of any clerk, or other person employed in any duties in relation to the collection of the revenue, shall be allowed, until such clerk or other person shall have certified, on oath or affirmation, that the same services have been performed, that he has received the full sum therein charged, to his own use and benefit, and that he has not paid, deposited, or assigned, nor contracted to pay, deposit, or assign, any part of such compensation to the use of any other person, nor in any way, directly or indirectly, paid or given, nor contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof.

SEC. 17. *And be it further enacted*, That if any person employed in any duties in relation to the collection of the revenue, shall accept or receive any fee, reward, or compensation, other than that allowed by law, for any service he may perform for any person, in making any entry or clearance, or preparing any papers to be used or kept in the custom-house, such person shall be removed from office, and shall, moreover, on conviction thereof, pay a fine, not exceeding five hundred dollars.

SEC. 18. *And be it further enacted*, That no collector, surveyor, or naval officer, shall ever receive more than four hundred dollars annually, exclusive of his compensation as collector, surveyor, or naval officer, and the fines and forfeitures allowed by law, for any services he may perform for the United States in any other office or capacity.

SEC. 19. *And be it further enacted*, That the salary of the collector of Cape Vincent shall commence from the time of his appointment.

SEC. 20. *And be it further enacted*, That this act shall be in force from and after the thirtieth day of June next.

Approved, May 7, 1822.

An Act vesting in the Commissioners of the counties of Wood and Sandusky the right to certain lots in the towns of Perrysburgh and Croghansville, in the State of Ohio, for county purposes.

Be it enacted, &c., That the right to all the unsold town lots and out lots in the town of Perrysburgh, be, and the same is hereby, vested in the commissioners of Wood county, in the State of Ohio; and the right to all the unsold town lots and out lots in the town of Croghansville, be, and the same is hereby, vested in the commissioners of Sandusky county, in said State, on condition that said commissioners shall permanently locate the seat of justice for their respective counties at said towns; and that the net proceeds of the sales of so many of said lots as are necessary to be retained for the purpose of erecting public buildings thereon be applied to the erection and improvement of the public buildings and squares in said towns, respectively.—Approved, May 7, 1822.

Public Acts of Congress.

An Act authorizing the payment of certain certificates.

Be it enacted, &c., That so much of an act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed the third day of March, one thousand seven hundred and ninety-five; and so much of the act, entitled "An act respecting loan offices and final settlement certificates, indents of interest, and the unfunded and registered debt, credited on the books of the Treasury," passed the twelfth day of June, one thousand seven hundred and ninety-eight, as bars from settlement or allowance certificates, commonly called loan office and final settlement certificates, and indents of interest, be, and the same is hereby, suspended for the term of two years from and after the passing of this act, and from thence until the end of the next session of Congress; a notification of which temporary suspension of the act of limitation shall be published by the Secretary of the Treasury, for the information of the holders of the said certificates, in one or more of the public papers in each of the United States.

SEC. 2. *And be it further enacted,* That all certificates, commonly called loan office certificates, countersigned by the loan officers of the States, respectively, final settlement certificates, and indents of interest, which, at the time of passing this act, shall be outstanding, may be presented at the Treasury, and, upon the same being liquidated and adjusted, shall be paid to the respective holders of the same, with interest at six per cent. per annum, from the date of the last payment of interest, as endorsed on said certificates.

SEC. 3. *And be it further enacted,* That, for carrying this act into effect, the sum of fifteen thousand dollars be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, May 7, 1822.

An Act supplementary to the several acts for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans.

Be it enacted, &c., That all the claims to land said to be derived from the British or Spanish authorities, reported to the Commissioner of the General Land Office by the registers and receivers of the land offices at St. Helena Courthouse, and at Jackson Courthouse, in the districts east and west of Pearl river, appointed under the authority of an act, entitled "An act for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans," which are contained in the several reports of the registers and receivers, and which are, in the opinion of the registers and receivers, valid, agreeably to the laws, usages, and customs, of the said Governments, be, and the same are hereby, recognised as valid and complete titles, against any claim on the part of the United States, or right derived from the United States.

SEC. 2. *And be it further enacted,* That all the claims reported as aforesaid, and contained in the several reports of the said registers and receivers,

founded on orders of survey, requettes, permission to settle, or other written evidences of claims derived from the Spanish authorities, which ought, in the opinion of the registers and receivers, to be confirmed, shall be confirmed, in the same manner as if the title had been completed: *Provided,* That the confirmation of all the said claims provided for by this act shall amount only to a relinquishment forever, on the part of the United States, of any claim whatever to the tract of land so confirmed or granted.

SEC. 3. *And be it further enacted,* That every person, or his or her legal representative, whose claim is comprised in the lists or registers of claims reported by the registers and receivers, and the persons embraced in the list of actual settlers, or their legal representatives, not having any written evidence of claim reported as aforesaid, shall, when it appears by the said reports, or by the said lists, that the land claimed or settled on had been actually inhabited or cultivated by such person or persons in whose right he claims, on or before the fifteenth day of April, one thousand eight hundred and thirteen, be entitled to a grant for the land so claimed or settled on as a donation: *Provided,* That not more than one tract shall be thus granted to any one person, and the same shall not contain more than six hundred and forty acres; and that no lands shall be thus granted which are claimed or recognised by the preceding sections of this act, or by virtue of a confirmation under an act, entitled "An act for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans," approved on the third day of March, eighteen hundred and nineteen: *And provided, also,* That no claim shall be confirmed where the quantity was not ascertained, and report made thereon by the registers and receivers, prior to the twenty-fifth day of July, one thousand eight hundred and twenty.

SEC. 4. *And be it further enacted,* That the registers and receivers of the public moneys of the said respective districts, except in relation to perfect titles, as recognised in the first section of this act, and the first section of the act of the third day of March, eighteen hundred and nineteen, shall have power to direct the manner in which all lands claimed in virtue of the preceding sections shall be located and surveyed; and, also, to direct the location and manner of surveying all the claims to land recognised by the second, third, and fourth sections of an act, entitled "An act for adjusting the claims to land, and establishing land offices, in the districts east of the island of New Orleans," approved on the third day of March, one thousand eight hundred and nineteen, having regard to the laws, usages, and customs, of the Spanish Government on that subject; and having regard, also, to the mode adopted by the Government of the United States in surveying the claims to land confirmed by virtue of the second and third sections of an act of Congress, entitled "An act regulating the grants of lands, and providing for the disposal of the lands of the United States south of the State of Tennessee," approved on the third of March, one thousand eight

hundred and three. And that, in relation to all such claims which may conflict, or in any manner interfere, the said registers and receivers of public moneys of the respective districts shall have power to decide between the parties, and shall, in their decision, be governed by such conditional lines or boundaries as may have been agreed on between the parties, either verbally or in writing, at any time prior to the passage of this act. But, upon the decision of those claims alluded to, which may conflict or interfere, and in relation to which the parties interested have agreed on no conditional lines or boundaries as to the manner of locating the same, the said registers and receivers of the respective districts shall make an equal division of the land claimed, so as to allow each party his or their improvements: *Provided, however*, That, should it be made appear, to the satisfaction of the register and receiver of public moneys of the respective districts, in any such case, that the subsequent settler had obstructed on the claim of the former, and had made his establishment after having been forbid so to do, the said registers and receivers of public moneys shall have power to decide between the parties, according to the circumstances of the case and the principles of justice.

SEC. 5. *And be it further enacted*, That patents shall be granted for all lands confirmed by virtue of the provisions of this act, in the same manner as patents are granted for lands confirmed under former acts, to which this is a supplement.

SEC. 6. *And be it further enacted*, That to every person who shall appear to be entitled to a tract of land, under the second and third sections of this act, a certificate shall be granted by the register and receiver of the district in which the land lies, setting forth the nature of the claim, and the quantity allowed; for which certificate the party in whose favor it issues shall be paid one dollar, to be divided between the said receiver and register.

SEC. 7. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to remove the land office from St. Helena Courthouse to such other place within the said districts as he may deem suitable and convenient.

Approved, May 8, 1822.

An Act confirming claims to lots in the town of Mobile, and to land in the former province of West Florida, which claims have been reported favorably on by the Commissioners appointed by the United States.

Be it enacted, &c., That all the claims to lots in the town of Mobile, founded on complete grants derived from either the French, British, or Spanish authorities, reported to the Secretary of the Treasury by the commissioner for the district east of Pearl river, appointed under the authority of "An act for ascertaining the titles and claims to land in that part of Louisiana which lies east of the island of New Orleans," or which were so reported by the register and receiver, acting as

commissioners, under the act of the third of March, one thousand eight hundred and nineteen, entitled "An act for adjusting claims to land, and establishing land offices, in the districts east of the island of New Orleans," which are contained in the reports of the commissioner, or of the register and receiver, acting as commissioners, and which are, in their opinion, valid, agreeably to the laws, usages, and customs, of the said Governments, be, and the same are hereby, recognised as valid.

SEC. 2. *And be it further enacted*, That all the claims to lots in the town aforesaid, reported as aforesaid, and contained in the reports of the commissioner, or of the register and receiver, acting as commissioners, founded on orders of survey, requestes, permissions to settle, or other written evidences of claims, derived from either the French, British, or Spanish authorities, and bearing date prior to the twentieth of December, one thousand eight hundred and three, and which ought, in the opinion of the commissioner, to be confirmed, shall be confirmed, in the same manner as if the title had been completed.

SEC. 3. *And be it further enacted*, That all the claims to lots in the town aforesaid, reported as aforesaid, and contained in the reports of the commissioner, or of the register and receiver, acting as commissioners, founded on private conveyances which have passed through the office of the commandant, or other evidence, but founded, as the claimants allege, on grants lost by time and accident, and which ought, in the opinion of the commissioner, to be confirmed, shall be confirmed, in the same manner as if the titles were in existence: *Provided*, That, in all such claims, where the quantity claimed is not ascertained, no one claim shall be confirmed for a quantity exceeding seven thousand two hundred square feet.

SEC. 4. *And be it further enacted*, That, for all the other claims to lots in the town aforesaid, reported as aforesaid, which are contained in the report of the register and receiver, and which, by the said report, appear to have been built upon, or improved and occupied, on or before the fifteenth day of April, one thousand eight hundred and thirteen, the claimants shall be entitled to grants therefor as donations: *Provided*, That, in all such claims, where the quantity claimed is not ascertained, no one claim shall be confirmed for a quantity exceeding seven thousand two hundred square feet: *And provided also*, That all the confirmations and grants provided to be made by this act, shall amount only to a relinquishment forever, on the part of the United States, of all right and title whatever, to the lots of land so confirmed or granted.

SEC. 5. *And be it further enacted*, That the registers and receivers of the land offices at St. Helena Courthouse, and at Jackson Courthouse, respectively, shall have the same powers to direct the manner in which all lands confirmed by this act, shall be located and surveyed; and, also, to decide between the parties in all conflicting and interfering claims, as are given by the act, entitled "An act supplementary to the several acts for adjusting

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the claims to land, and establishing land offices, the districts east of the island of New Orleans." Approved, May 7, 1822.

An Act to designate the boundaries of a Land District, and for the establishment of a Land Office in the State of Indiana.

Be it enacted, &c., That, for the sale of the unappropriated public lands in the State of Indiana, to which the Indian title is extinguished, the following district shall be formed, and a land office established: All the public lands, as aforesaid, to which the Indian title was extinguished by the treaties concluded at St. Mary's in the month of October, eighteen hundred and eighteen, lying east of the range line, separating the first and second ranges, east of the second principal meridian, extended north to the present Indian boundary, and north of a line to be run separating the tiers of townships numbered twenty and twenty-one, commencing on the old Indian boundary, in range thirteen east of the said principal meridian, in Randolph county, and the said district to be bounded on the east by the line dividing the States of Ohio and Indiana, shall form a district, for which a land office shall be established at Fort Wayne.

SEC. 2. *And be it further enacted,* That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, for the aforesaid district, a register of the land office, and a receiver of public moneys; which appointments shall not be made, for the aforesaid land district, until a sufficient quantity of public lands shall have been surveyed within the said district, as to authorize, in the opinion of the President, a public sale of land within the same; which register of the land office, and receiver of public moneys, when appointed, shall each, respectively, give security, in the same sums, and in the same manner, and whose compensation, emoluments, and duties, and authority, shall, in every respect, be the same in respect to the lands which shall be disposed of at their offices, as are or may be provided by law in relation to the registers and receivers of public moneys in the several land offices established for the disposal of the public lands of the United States, in the States of Ohio and Indiana.

SEC. 3. *And be it further enacted,* That all the public lands, within the aforesaid district, to which the Indian title has been extinguished, and which have not been granted to, or secured for, the use of any individual, or individuals, or appropriated and reserved for any other purpose, by any existing treaties, or laws, and with the exception of section numbered sixteen, in each township, which shall be reserved for the support of schools therein, shall be offered for sale to the highest bidder, at the land office for the said district, under the direction of the register of the land office, and receiver of public moneys, on such day, or days, as shall, by proclamation of the President of the United States, be designated for that purpose: the lands shall be sold in tracts of the same size, on the same terms and conditions, and in every other respect, as provided by the act, entitled "An act

making further provision for the sale of the public lands," approved April twenty-fourth, eighteen hundred and twenty.

SEC. 4. *And be it further enacted,* That the President of the United States shall have power, and he is hereby authorized, to remove, whenever he shall judge it expedient so to do, the land office aforesaid, to such suitable place, within the said district, as he shall judge most proper.

SEC. 5. *And be it further enacted,* That the register of the land office, and receiver of public moneys, shall each receive five dollars for each day's attendance in superintending the public sales in the said district.

Approved, May 8, 1822.

An Act to authorize the building of lighthouses, therein mentioned, and for other purposes.

Be it enacted, &c., That, as soon as the jurisdiction of such portions of land at Monhegan island, on the coast of Maine; at Billingsgate island, in Barnstable bay; at Cutter Hunk island, near New Bedford, in the State of Massachusetts; at Stonington point, in the State of Connecticut; at Old Field point, Long Island, in the State of New York; at Cape May, in the State of New Jersey; at or near the port of Ocracoke, in the State of North Carolina; at Cape Florida, and on the Dry Tortugas, or some place in the vicinity, as the President of the United States shall select, for the sites of lighthouses, shall be ceded to, and the property thereof respectively vested in, the United States, it shall be the duty of the Secretary of the Treasury to provide, by contracts, which shall be approved by the President, for building lighthouses, respectively, on such sites, to be so lighted as to be distinguishable from other lighthouses near the same, and also to agree for the salaries, wages, or hire, of the persons to be appointed by the President for the superintendence of the same.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury be, and he hereby is, authorized, if he shall deem it expedient, to cause to be removed the floating light, placed at or near the said port of Ocracoke, and to have the same placed at the narrows in the Potomac river.

SEC. 3. *And be it further enacted,* That the Secretary of the Treasury be, and he hereby is, authorized to provide by contract, for procuring and placing buoys at the following places, to wit: one at Harbor Island bar, one on Pine Point shoal, one on the point of Marsh shoals, one on Swan Island shoal, one on the east end of Brant Island shoal, one on the Middle Ground shoal, one on the Bluff shoal, and one on the Long shoal, all being situated on the coast of North Carolina; and also for three buoys for the bar of the port of Georgetown, in South Carolina.

SEC. 4. *And be it further enacted,* That the following sums be appropriated for the purpose of carrying the provisions of this act into effect, to be paid out of any moneys in the Treasury, not otherwise appropriated, to wit: For building the lighthouse at Monhegan island, three thousand dollars; at Billingsgate island, on Barnstable bay,

two thousand dollars; at Cutter Hunk island, near New Bedford, and for placing buoys near thereto, three thousand dollars; at Old Field point, Long Island, two thousand five hundred dollars; for placing a lamp on the mess-house at Fort Niagara, one thousand dollars; for finishing the pier near the port of Kennebunk, in the State of Maine, the further sum of four thousand dollars; for completing the lighthouse on Throg's Neck, the additional sum of five hundred dollars; for building a light vessel, and placing the same on or near the outer bar of the harbor of New York, fifteen thousand dollars; for placing three buoys on the bar near the port of Georgetown, South Carolina, three hundred dollars; for rebuilding and completing the lighthouse on Frank's island, in the State of Louisiana, nine thousand seven hundred and fifty dollars; for building the lighthouse at Stonington Point, three thousand five hundred dollars; for building the lighthouse at Cape May, the sum of five thousand dollars, for building the lighthouse at or near Ocracoke, the sum of twenty thousand dollars; for building the lighthouse at Cape Florida, eight thousand dollars; and for building a lighthouse on the Dry Tortugas, or on some place in the vicinity, eight thousand dollars; and for procuring and placing the buoys on the coast of North Carolina, and for removing the floating light at or near the port of Ocracoke, the sum of one thousand three hundred dollars.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized to provide, by contract, to be approved by the President of the United States, for building a sea wall, or pier, at the Isles of Shoals, between Cedar island and Smutty-nose island, on the coast of New Hampshire and Maine, conformably to the report of the commissioners appointed under the fourth section of the act, passed the third day of March, one thousand eight hundred and twenty-one, entitled "An act to authorize the building of lighthouses therein mentioned, and for other purposes;" and that a sum, not exceeding eleven thousand five hundred dollars, is hereby appropriated for the purpose aforesaid, to be paid out of any moneys in the Treasury, not otherwise appropriated.

SEC. 6. *And be it further enacted*, That the Secretary of the Treasury be authorized and required to cause to be erected, in the bay of Delaware, at or near a place called the Shears, near Cape Henlopen, by contract or contracts, to be approved by the President of the United States, two piers, of sufficient dimensions to be a harbor or shelter for vessels from the ice, if, after a survey made under his direction, the measure shall be deemed expedient; and provided, that the jurisdiction of the site where such piers may be directed shall be first ceded to the United States, according to the conditions in such case by law provided; and that, for the purpose of carrying the same into effect, there be appropriated the sum of twenty-two thousand seven hundred dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated.

SEC. 7. *And be it further enacted*, That the light-house authorized to be built on Cross island, in the State of Maine, be and the same is hereby directed to be built on the south point of Libby island, and for building and completing the same, the sum of five hundred dollars, in addition to the former appropriation, is hereby appropriated, out of any money in the Treasury, not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the following sums of money be and the same are hereby appropriated, out of any moneys in the Treasury, not otherwise appropriated, for the following purposes, to wit: Four thousand dollars to enable the Secretary of the Treasury to purchase the patent right of David Melville and others to a newly-invented lamp for lighting lighthouses; and a sum not exceeding four thousand two hundred and forty dollars for placing the same in lighthouses.

SEC. 9. *And be it further enacted*, That, for making and completing a survey of the coast of Florida, under the direction of the President of the United States, a sum of money not exceeding six thousand dollars be and the same is hereby appropriated, out of any moneys in the Treasury, not otherwise appropriated, for carrying the same into effect.

Approved, May 7, 1822.

An Act to establish an additional Land Office in the State of Illinois.

Be it enacted, &c., That so much of the public lands of the United States as lies east of the Mississippi river, north of the line separating the thirteenth and fourteenth tiers of townships north of the base line, and west of the third principal meridian, in the State of Illinois, shall form a land district, for the disposal of said lands, and for which purpose a land office shall be established at such place therein as the President of the United States shall designate, until the same shall be permanently fixed by law.

SEC. 2. *And be it further enacted*, That there shall be a register and receiver appointed to the said land office, to superintend the sales of the public lands in the said district, who shall reside at the place where the said office shall be established as aforesaid; give security in the same manner, in the same sums; and whose compensation, emoluments, and duties, and authorities, shall in every respect be the same in relation to the lands which shall be disposed of at their offices as are or may be by law provided in relation to the registers and receivers of public moneys in the several offices established for the sale of the public lands: *Provided*, That the said appointments shall not be made until a sufficient quantity of public lands shall have been surveyed within the said district to authorize, in the opinion of the President, a public sale of lands within the same.

SEC. 3. *And be it further enacted*, That the provisions of the second, third, and fifth sections of the act, entitled "An act to designate the boundaries of districts, and establish land offices for the

disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana," approved March third, eighteen hundred and nineteen; and the act, entitled "An act making further provision for the sale of the public lands," approved April twenty-fourth, eighteen hundred and twenty—be and the same are hereby made applicable to the said district and office, so far as they are not changed by subsequent laws of the United States.

Approved, May 8, 1822.

An Act requiring Surveyors General to give bond and security for the faithful disbursement of public money, and to limit their term of office.

Be it enacted, &c., That, from and after the passing of this act, every Surveyor General, commissioned by the authority of the United States, shall, before entering on the duties of his office, and every Surveyor General now in commission shall, on or before the thirtieth day of September next, execute and deliver to the Secretary of the Treasury of the United States a bond, with good and sufficient security, for the penal sum of thirty thousand dollars, conditioned for the faithful disbursement, according to law, of all the public money placed in his hands for disbursement, and for the faithful performance of the duties of his office.

SEC. 2. *And be it further enacted,* That the commission of every Surveyor General now in office shall, unless sooner vacated by death, resignation, or removal from office, cease and expire on the first day of February next; and the commission of every Surveyor General, hereafter commissioned by the authority of the United States, shall cease and expire, unless sooner vacated by death, resignation, or removal from office, in four years from the date of the commission.

SEC. 3. *And be it further enacted,* That the President of the United States shall, and he is hereby authorized, whenever he may deem it expedient, require any Surveyor General of the United States to give new bond and additional security, under the direction of the Secretary of the Treasury, for the faithful disbursement, according to law, of all money placed in his hands for disbursement.

Approved, May 7, 1822.

An Act to establish certain Post Roads, and to discontinue others, and for other purposes.

Be it enacted, &c., That the following mail routes be discontinued, that is to say:

In Vermont.—From Lynden to Wheelock, in the county of Caledonia.

In New York.—From Utica, by Clinton, Chandler's Store, Augusta, and Madison, to Hamilton Village.

From Chitteningo, alias Sullivan, to Madison, and that part of the route from Leicester to Olean, which is situated between Oil Creek and Olean.

In New Jersey.—From Liberty Corner to Somerville.

In Maryland.—From Annapolis to Kent Island,

and from thence through Queenstown to Centreville.

In Pennsylvania.—From Uniontown by Middletown to Perryopolis.

From Loudontown to Messenburg.

In Virginia.—From Brown's Store to Dickinson's Store, in Franklin county.

In North Carolina.—From Haysville to Williamsborough.

From Winton to Gates Courthouse, to Sunbury.

From Waynesville, in North Carolina, to Housenville, in South Carolina.

In Kentucky.—From Ross's Post Office, Whitby county, to Monticello, in Wayne county.

From Manchester to the Hazelpatch, and from thence to Columbia.

In Ohio.—From the mouth of Little Scioto to Picketon.

In Arkansas.—From Clark Courthouse to Hempstead Courthouse, and to the post of Washita.

SEC. 2. *And be it further enacted,* That the following post roads be established, to wit:

In Maine.—From Hallowell, by Silas Piper's, in Harlem, Jonathan Greely's, at the Four Corners in Palermo, to Montville.

In Vermont.—From Poultney, through Middletown, Timmouth, and Willingford, to Mount Holy, in the county of Rutland.

From Montpelier, through Barre, Orange, and Topsham, to Newbury.

From Lynden, through Sutton, to Barton, in the county of Orleans.

In Massachusetts.—From Plymouth to Carver and Rochester.

From Holmes's Hole, in Tisbury, to Chilmark, in the island called Martha's Vineyard.

From Mendon, through Milford, Holliston, Sherburne, Natick, Needham, Newton, and Brighton, over the milldam, to Boston.

From Millbury, in Worcester county, to the town of Providence, in Rhode Island, to pass through the towns of Sutton and Douglass, in Massachusetts, and the town of Burrellville and Village of Chepackett, in Rhode Island.

From Belchertown, by Enfield, to Greenwich.

From Worcester to Providence, in Rhode Island, passing through Grafton, Upton, Mendon, Bellingham, Cumberland, and Pawtucket.

From Amesbury to Southampton, in New Hampshire, and thence to Kingston.

In Connecticut.—That the post road from Hartford to New London shall be by the Presbyterian meeting-house, in the first society in the town of Hebron.

From New London, along the turnpike road, to the town of Providence, in Rhode Island.

In New Hampshire.—The post road from Walpole to Newport shall be through the town of Langdon.

In New York.—From Deposit to Stockport, in Pennsylvania.

From Jay to Danville, thence down the Ausable river, by Bullen's Mills, to Keeseville, in the town of Chesterfield.

From Schenectady, by Charlton, Galway, Prov-

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idence, and Northampton, to Edinburgh, and from Edinburgh back by Northampton, West Galway Church, and Glenville, to Schenectady.

From the post office in Luzerne, on the west side of the Hudson river, to the post office in Chester.

From Green, in the county of Chenango, to Ithaca, in Tompkins county.

From Cherry Valley, in the county of Otsego, to the village of Canajoharie, in the county of Montgomery.

From Champion, in the county of Jefferson, to Alexandria, by Felt's Mills, Le Raysville, Evan's Mills, Theresa, and Plessis.

From the village of Canandaigua to the village of Penn Yan, in the county of Ontario.

From Batavia, by the village of Lockport, to intersect the ridge road at William Molyneux's, in the town of Cambia.

From Howard, in the county of Steuben, by Rathbun's settlement and Loon Lake settlement, to Conhocton.

From Bath to Catherine's, by Mount Washington and Bartle's Mills, and returning by Mead's creek to the mouth of Mud creek.

From South Dansville to Goff's Mills.

From Champlain to the town of Mooers, thence by Lawrence's Mills and Beckmantown, to Plattsburg.

From Ithaca to Burdett, near the head of Seneca lake.

From Poughkeepsie, by Pleasant Valley, Salt Point, James Thorn's, in Clinton, Friends' meeting-house in Stanford, the Federal store, and from thence to the Pine Plains post office, in the town of Northeast.

From Moscow, in Livingston county, to the village of Fredonia, in Chautauque county.

From Cincinnati, through Willet and Free-town, to Harrison.

From Canastota, at Perkins's basin, on the great Erie canal, through Lenox, Clarkville, Perryville, Peterborough, and Morrisville, to Eaton.

The mail route from Bath, by Angelica, Hamilton, Cerestown, Pennsylvania, Coudersport, and Jersey shore, to Williamsport, shall pass by Smithport, in McKean county, Pennsylvania, either in going or returning.

From Esperance to Middleburg, by the way of Schoharie, in Schoharie county.

In New Jersey.—From Liberty Corner, by Pluckemin, to Somerville.

From Somerville, by New Germantown, through Paipack valley, to Mandham and Morristown.

From Hackensack, in the county of Bergen, by Patterson's landing and Belleville, to Newark, in Essex county.

From Beasley's, at the mouth of Great Egg Harbor river, by Etna Furnace, on Tuckahoe river, Cumberland Furnace, Malligo, Glasborough, and Woodbury, to Philadelphia.

From Princeton, by Harlingen, to Flagtown.

In Maryland.—From Hagerstown, by Mercersburg, to McConellsburg, in Pennsylvania.

From Annapolis, by Baltimore, to Queenstown, and from thence to Centreville and Kent Island.

In Pennsylvania.—From Philadelphia, by the falls of Schuylkill, to Norristown.

From Swamp Churches, in Montgomery county, by Boyerstown, to Reading.

From Doylestown, by Sorrel Horse, Bustleton, and Byberry, to Andalusia, and return by the Black tavern and Hartville to Doylestown.

From Easton, Northampton county, to Hellers-town, Quakertown, and Bursonsville, in Bucks county.

From Emaus, by Millerstown, to Trexlerstown, in Lehigh county.

From Chambersburg to Waynesburg, by Samuel Fisher's store, in Franklin county.

From McCall's ferry, in Lancaster, to the borough of Westchester, in Chester county.

From Meadville to Salem, at the mouth of Big Conneatt, Ohio.

From the village of Blearsville, by Youngstown, to Mount Pleasant.

From Newville, in Cumberland county, to Roxbury and Strasburg, in Franklin county.

From Landisburg, in Perry county, to Waterford, in Mifflin county.

From Selinsgrove to New Berlin.

From Ebensburg to Indiana.

From Uniontown, by Connellsville, to Perryopolis.

From the city of Lancaster, through Millers-town, Washington, and Charlestown, to the borough of Columbia.

In Virginia.—From Winchester to the Berkeley Springs, in Morgan county.

From Lewisburg, by Huttonsville, Beverly, Leadsville, Meigsville, Swamp, and Kingwood, to Morgantown.

From Salem, in Botetourt, through the Bent mountain, by Simpson's and Thomas Goodson's, to Boon's, on the west fork of Little river, in Montgomery county.

From the city of Richmond, by Piping Tree, in King William county, to King and Queen Courthouse, Gloucester, Middlesex, and Matthews.

From Halifax Courthouse to Person Courthouse, North Carolina.

From Franklin Courthouse to Henry Courthouse, to go by Dickerson's store, in Franklin county.

From Lynchburg, by Pittsylvania Courthouse, to Danville, and from Danville to Halifax Courthouse.

From Parkersburg to Kanawha Courthouse.

From Richmond to Chesterfield Courthouse, to go by Mechanick's inn, instead of the route now established.

That the route from Stanton, by Greenbrier Courthouse and Charleston, to Catletsburg, in Kentucky, be changed so as to go by the Sulphur springs, on Muddy creek, in Greenbrier.

From Bath Courthouse to Alleghany Courthouse.

In North Carolina.—From Haysville, in Franklin county, by Glasgow's store and Health seat, to Oxford, in Granville.

From Ashe Courthouse to Jordan Councils, in same county.

From Stokesville, by Gates' Courthouse, to Sunbury.

That the route from Fayetteville to Salisbury be changed, so as to go by Carthage, McNeill's, Hill's and Skean's ferry, and to return by Forrest's, Blakely, Lawrenceville, Allentown, and McAuley's store.

From Fayetteville, by Graham's bridge, Rockingham, to Wadesborough.

From Tyson's store to Waddle's ferry, Bröwer's mill, Hugh Moffitt's mill, thence to Richard Kennon's, and to Haywood.

From Waynesville, Hayward Courthouse, by Lovesville, on Scott's creek, to Franklin, in the Cherokee purchase, and from thence to Rabun Courthouse, in Georgia.

In South Carolina.—From Rocky Mount to Pine Hill post office, to pass by Ebenezer academy.

From Fayetteville, in North Carolina, leaving the road to Camden at or near Laurel Hill, by Cheraw, to Camden.

From Cheraw, by Society hill and Darlington Courthouse, to intersect the great southern route at Godfrey's ferry, on the Pedee river.

From Cheraw, by Chesterfield Courthouse, to Lancaster Courthouse.

In Georgia.—From Lawrenceville, in Gwinett county, to the standing Peach tree, (Fayette Courthouse.)

From Jefferson, by Colerain, by Crawford, in Florida, and to St. Augustine, and the route at present used discontinued.

From Elberton to Ruckersville, in Elbert county.

In Alabama.—From Huntsville, by Triana, Mooresville, Athens, Eastport, and Bainbridge, to the Big Spring.

From Cahawba, by Portland, Prairie Bluff, the standing Peach tree, through the populous settlement on Bassett's creek, and by Clarke Courthouse, to St. Stephen's, so as to reinstate the old route from Cahawba to St. Stephen's, and the present route from Cahawba to St. Stephen's to be discontinued.

From Ashville to Huntsville, by the way of Robertsville and Bennett's store.

From Augusta, on the Talapoosa, by Coosawda, passing through the settlement in the upper end of Autago county, and the settlement on Mulberry creek, in Bibb county, by the falls of Cahawba, to the town of Tuscaloosa.

In Mississippi.—From Winchester, by Perry Courthouse and Columbia, to Holmesville.

From Picken's Courthouse, in Alabama, by Monroe Courthouse, the Cotton Gin port, and the Chickasaw agency, in the State of Mississippi, to the Chickasaw bluffs, in the State of Tennessee.

From the Choctaw agency, by Jackson, to Monticello.

In Tennessee.—From Campbell's station, by Blair's ferry, to Pumpkintown.

From Sparta, in White county, to Pikeville, in Bledsoe county.

The post road from Morgantown to Mount Pleasant, alias Pumpkintown, to go by Monroe Courthouse.

From Greenville to the Warm Springs, in North Carolina.

In Kentucky.—From Manchester, by Perry Courthouse, to Patrick salt works.

From Morganfield, crossing the Ohio at Francisburg, to Harmony, in Indiana.

From Monticello, by Beatty's salt works, and Ross's post office, to Jacksborough, in Tennessee.

From Williamsburg, in Witley county, by Ross's post office, to Somerset, in Pulaski county.

From Richmond to the Hazel patch, hereafter to go by Manchester to Barbourville.

In Ohio.—From Bellefontaine, in Logan county, by Forts McArthur and Findlay, to the foot of the rapids of the Miami of the Lake.

From Columbus, by Maysville, the seat of justice of Union county, thence through Zanesfield to Bellefontaine, in the county of Logan.

From Norton, in the county of Delaware, by Claredon, Buayners, to the city of Sandusky.

From the mouth of Little Scioto to Portsmouth.

From Cleveland, through Newburg, Hudson, Ravenna, Palmyra, Ellsworth, Canfield, Boardman, Poland, Petersburg, and Greensburg, to Beavertown, in Pennsylvania.

From Columbus to Sunbury, through Harrison and Ravenna townships.

From Columbus, by Springfield, Dayton, and Eaton, thence to Indianapolis, in the State of Indiana, thence by Vandalia, in Illinois, thence to St. Louis, in Missouri.

From West Union to Cincinnati, to pass through Georgetown, the seat of justice of Brown county, instead of the present route.

From Augusta, Kentucky, by Lewis, Felicity, Chilo, Neville, Pointopolis, New Richmond, and Newtown, to Cincinnati, in Ohio.

In Indiana.—From Terre Haute, by Clinton, the seat of justice for Parke county, and Crawfordsville, to Indianapolis.

From Washington, by Burlington and Blooming, to Indianapolis.

From Lawrenceburg, by Napoleon, to Indianapolis.

In Illinois.—From Vincennes, in Indiana, by Ellison's, Prairie, Palestine, York, Aurora, Grand Prairie, in Clark county, to Clinton.

From Peoria, on Illinois river, to Sangama county.

From Edwardsville to Sangama Courthouse.

In Missouri.—From St. Genevieve by Herculeanum to St. Louis.

From Herculeanum to Potosi.

From Jackson to Fredericktown.

From Potosi to New Bowling Green.

From St. Charles to Cote Sans Dessein, shall hereafter go by the seat of justice for Calloway county.

From Fishing river to Fort Osage, shall hereafter pass by the seat of justice in Clay county.

In Arkansas.—From the post of Arkansas by Little Rock, Crystal Hill, Cadron and Ellis's, to Crawford Courthouse.

From Little Rock, by Clark Courthouse, to Natchitoches.

From Clark Courthouse by Hempstead Courthouse to Miller Courthouse.

In Louisiana.—From Natchez to Baton Rouge, by Woodville and Jackson.

From Pinkneyville, Mississippi, by Avoyelles, to Alexandria, in Louisiana.

From Baton Rouge by Plaquemine and Duplesses's landing in the Attacapas, to Opelousa Courthouse.

From New Orleans to Pensacola.

In Florida.—From Pensacola to St. Marks, thence to Volland, at Dexter's, on St. John's river, thence down the river to Picolata, and thence to St. Augustine.

From Pensacola to Fort Hawkins, in Alabama.

SEC. 3. *And be it further enacted,* That the Postmaster General may allow to the Postmaster at Salem, Massachusetts, at the rate of two hundred dollars a year in addition to his ordinary commissions.

Approved, May 8, 1821.

RESOLUTIONS.

Resolution providing for the distribution of the Marshal's returns of the Fourth Census.

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the Secretary of State be instructed to furnish to each member of the present Congress, and the Delegates from Territories, the President and Vice President of the United States, the Executive of each State and Territory, the Attorney General, and Judges of the Courts of the United States, and the Colleges and Universities in the United States, each one copy; for the use of the Departments, viz: State, Treasury, War, and Navy, five copies each; for the use of the Senate, five copies; and for the use of the House of Representatives, ten copies, of the Marshal's returns of the Fourth Census; and that the residue of the copies of the said returns be deposited in the Library of Congress.

Approved, February 4, 1822.

Resolution providing for the distribution of the Secret Journal and Foreign Correspondence of the old Congress, and of the Journal of the Convention which formed the Constitution of the United States.

Resolved, &c., That the President of the United States be requested to cause to be furnished to each member of the present Congress, and the Delegates from Territories, who may not be entitled to the same under the resolution of Congress of the twenty-seventh of March, one thousand eight hundred and eighteen; the President and Vice Presi-

dent of the United States, the Executive of each State and Territory, the Attorney General, and Judges of the courts of the United States, and the Colleges and Universities in the United States, each one copy; for the use of each of the Departments, viz: State, Treasury, War, and Navy, two copies each; for the use of the Senate, five copies; for the use of the House of Representatives, ten copies; and for the Library of Congress, ten copies, of the Secret Journals, and of the Foreign Correspondence, ordered to be printed by the several resolutions of Congress, passed on the twenty-seventh of March, one thousand eight hundred and eighteen, and of April twenty-first, one thousand eight hundred and twenty: Also, to each member of the present Congress, who has not received the same, one copy of the Journal of the Convention which formed the Constitution of the United States. And that the remaining copies be preserved in the Library, subject to the future disposition of Congress.

Approved, January 11, 1822.

Resolution, directing the classification and printing of the accounts of the several manufacturing establishments and their manufactures, collected in obedience to the tenth section of the act to provide for taking the fourth census.

Resolved, &c., That the Secretary of State be directed to cause to be classified and reduced to such form as he may deem most conducive to the diffusion of information, the accounts of the several manufacturing establishments and their manufactures, taken in pursuance of the tenth section of the act, entitled "An act to provide for taking the fourth census or enumeration of the inhabitants of the United States, and for other purposes," approved the fourteenth of March, one thousand eight hundred and twenty, and that he cause fifteen hundred copies of the digest, so to be made, to be printed, subject to the disposition of Congress.

Approved, March 30, 1822.

Resolution providing for the security in the transmission of letters, &c., in the public mails.

Resolved, &c., That it shall be the duty of the Postmaster General to introduce, as soon as conveniently may be, on one or more of the most exposed routes, Richard Inlay's plan of copper cases, secured in iron chests, with inside locks and sliding bars, in such a way as to test its efficacy in preventing robberies of the mail: *Provided,* The extra expense for each mail carriage shall not exceed one hundred and fifty dollars.

Approved, April 26, 1822.